



MASTER DEVELOPMENT AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

BETWEEN:

**City of Kelowna**, a local government, duly incorporated under the laws of the Province of British Columbia, having an office at 1435 Water Street, in the City of Kelowna, Province of British Columbia, V1Y 1J4

(hereinafter called the “**City**”)

AND:

**Westcorp On The Lake Limited Partnership** (Registration No. XP0490356) having an office at 200 – 1460 Pandosy St. in the City of Kelowna, Province of British Columbia, V1Y 1P3 , **by its General Partner, Westcorp On The Lake Inc.** (Inc. No. A0075763), a company extra-provincially registered under the laws of the Province of British Columbia, having an office at 200 - 1460 Pandosy Street, in the City of Kelowna, Province of British Columbia, V1Y 1P3 and **Westcorp on the Lake Inc.**

(hereinafter collectively called the “**Developer**”)

WHEREAS:

A. The Developer is the beneficial and registered owner of lands and premises situate, lying and being in the City of Kelowna, Province of British Columbia, and more particularly known and described as:

- PID: 029-373-301      Lot 1 District Lot 134 Osoyoos Division Yale District Plan EPP41204 Except Plan EPP112300
- PID: 031-681-751      Lot 1 District Lot 134 Osoyoos Division Yale District Plan EPP112300
- PID: 031-681-760      Lot 2 District Lot 134 Osoyoos Division Yale District Plan EPP112300
- PID: 031-681-778      Lot 3 District Lot 134 Osoyoos Division Yale District Plan EPP112300

(collectively hereinafter called the “**Lands**”);

B. The Developer has made an application to the City for a development permit or development permits (the “**Development Permit**”) to develop the Lands substantially as set out in the Concept Plan attached as Schedule “**A**” hereto;

C. The Developer wishes to develop rental units through the construction of a series of townhomes and apartment buildings; and

D. The parties wish to set out in this Master Development Agreement their agreement as to conditions for the Development (as defined below) and the various provisions if the Development Permit is issued, namely:

- (i) the provision, protection and maintenance of access roads;
- (ii) the construction of off-site and on-site streetscape and site servicing improvements;
- (iii) the provision, protection and maintenance of City owned water utility services within the Development, including the provision of covenants, statutory rights of way or combination thereof;
- (iv) amenity phasing and the construction of Wilson Creek Linear Park;
- (v) dedication or transfer of Wilson Creek Linear Park to the City;
- (vi) allocation of density through different phases of the Development;
- (vii) the construction of the Roads and Sidewalks through the Lands, including the provision of covenants, statutory rights of way or combination thereof, to secure public use of the Roads and Sidewalks;
- (viii) Section 219 No-Build Covenant restricting development on the Lands except as contemplated by this Agreement;
- (ix) the provision, protection and maintenance of storm and sanitary sewer works throughout the Development;
- (x) the construction of Bird Place bridge; and
- (xi) construction of Lakeshore Road frontage improvements and the installation of a pedestrian crossing on Lakeshore Road.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration for the mutual promises exchanged herein, the parties agree as follows:

## **1. DEFINITIONS**

1.1. In this Agreement:

**"Agreement"** or **"Master Development Agreement"** or **"MDA"** means this Agreement;

**"Concept Plan"** means the sketch attached hereto as Schedule "A";

**"Development"** means the development that the Developer will construct on the Lands as contemplated under this Agreement and substantially as set out in the Concept Plan;

**"DP Phase 1"**, **"DP Phase 2"** and **"DP Phase 3"** mean the development permit phase as shown on the Phasing Plan attached hereto as Schedule "H";

“**DP Phase**” means any of DP Phase 1, DP Phase 2, or DP Phase 3 attached hereto as Schedule “H”;

“**Final Townhouse Building**” means, for the purposes of Section 6.2, the last of the nine townhouses to be constructed within the area described as DP Phase 1 (DP20-0037) on the Phasing Plan attached hereto as Schedule “H”;

“**Roads and Sidewalks**” means a portion of the Lands, generally as shown on the Concept Plan, for the use and enjoyment of the public in perpetuity; and

“**Tower 3**” means, for the purposes of Section 6.2, the building to be constructed adjacent to Lakeshore Road and identified as Tower 3 on the Phasing Plan attached hereto as Schedule “H”.

1.2. The following Schedules are attached to and form part of this Agreement, and each description of a Schedule set out below shall be a defined term in this Agreement:

- (a) Schedule "A" – Concept Plan;
- (b) Schedule "B" – Section 219 No-Build Covenant;
- (c) Schedule "C" – Wilson Creek Linear Park Plan;
- (d) Schedule "D" – Parks Maintenance and Operations Agreement
- (e) Schedule "E" – Roads and Sidewalks Statutory Rights of Way
- (f) Schedule "F" – Offsite Infrastructure Improvements Plan;
- (g) Schedule "G" – Onsite Servicing Plan;
- (h) Schedule "H" – Phasing Plan;
- (i) Schedule "I" – Phased Parking Plan;
- (j) Schedule "J" – Access Easement;
- (k) Schedule “K” – *Intentionally deleted*;
- (l) Schedule "L" – Assignment and Assumption Agreement;
- (m) Schedule “M” Density – Section 219 Covenant;
- (n) Schedule “N” – City – Statutory Right of Way Regarding Water
- (o) Schedule “O” – Section 219 Construction and Maintenance Covenant.

## **2. DEVELOPMENT IN ACCORDANCE WITH PLANS**

2.1. The parties acknowledge that the Concept Plan is general and conceptual only, having been prepared without a determination as to whether the precise road alignment best suits the contours of the Lands. Parcel locations and configurations have only been shown to provide an indication as to probable site coverage and location and do not control final siting and location of the parcels and/or structures to be constructed on the Lands.

2.2. The Developer covenants and agrees that it will seek further approvals to subdivide and develop the Lands in substantial compliance with the Concept Plan.

2.3. The Developer will construct the Development in phases consistent with the Phasing Plan attached as Schedule "H", with some flexibility of sequencing for future buildings not connected to the parkade.

## **3. WILSON CREEK LINEAR PARK**

3.1. The Developer covenants and agrees to transfer to the City an area of approximately 8,411 square meters along the south boundary of the Lands adjacent to Wilson Creek, generally in locations, configurations and at the times, identified on the Wilson Creek Linear Park Plan, subject to the final review and acceptance of the City, acting reasonably ("Wilson Creek Linear Park").

3.2. The Developer covenants and agrees that it will construct and install in Wilson Creek Linear Park the works and services as set out in a Parks Maintenance and Operations Agreement attached to this Agreement as Schedule "D" to the satisfaction of the City.

3.3. Once the works and services contemplated in section 3.2 of this Agreement are constructed and installed in the Wilson Creek Linear Park to the satisfaction of the City and prior to the use or occupancy of the final building in DP Phase 3, the Developer shall transfer the Wilson Creek Linear Park to the City.

3.4. The Developer covenants and agrees that it will maintain the Wilson Creek Linear Park works and services set out in the Parks Maintenance and Operations Agreement and the Developer covenants and agrees to enter into a Park Maintenance and Operation Agreement with the City, which agreement will govern the construction and maintenance of the works and services to be installed by the Developer in Wilson Creek Linear Park. The Park Maintenance and Operations Agreement shall be substantially in the form attached to this Agreement as Schedule "D". The Developer may assign its rights and obligations under the Park Maintenance and Operation Agreement to a society to be incorporated for the purpose of maintenance and the City shall consent to such assignment.

## **4.0 ROADS AND SIDEWALKS**

4.1. The Developer has provided statutory rights of way to provide for public access to the Roads and Sidewalks in the form attached to this Agreement as Schedule "E".



4.2. The Developer will grant an access easement to each of the lots created by the Development, over all the other lots within the Development, as they are created, in accordance with the Concept Plan. The access easement will be substantially in the form attached as Schedule “J”.

## 5. RESTRICTIVE COVENANTS

5.1 The Developer covenants and agrees that it will, at its sole cost, provide the City with the Section 219 No-Build Covenant restricting the development of the Lands to be consistent with the terms of this Mater Development Agreement substantially in the form attached to this Agreement as Schedule “B”.

5.2 The Developer covenants and agrees with the City that the total density on the Lands shall be restricted to 90,990 m<sup>2</sup> of the net floor area (the “Development Density”). At the time of the first application for subdivision of the Lands, density will be allocated to the lot or lots to be created by the subdivision. The Developer covenants and agrees that it will, at its sole cost, register a section 219 *Land Title Act* covenant (the “Density - Section 219 Covenant”) on the newly created lot or lots from the subdivision allocating a portion of the Development Density to that lot or lots and concurrently register a Density – Section 219 Covenant on the remainder of the Lands allocating the remaining Development Density. At the time of any subsequent application for subdivision of the Lands, density will be allocated to the lots or lots to be created by the subdivision. The Developer covenants and agrees that it will, at its sole cost, register a Density – Section 219 Covenant on the newly created lot or lots created by any subsequent subdivision allocating a portion of the remaining Development Density to that lot or lots and concurrently register an amendment to the Density – Section 219 Covenant registered on the remainder of the Lands reducing the total density permitted by that covenant by the amount of density allocated to the new lot or lots, such that the density allocated to all lots on the Lands is no greater than the Development Density. The Density – Section 219 Covenant used to allocate and restrict the density shall be substantially in the form attached as Schedule “M”.

5.3 The Developer covenants and agrees that it will, at its sole cost, install and construct the following works on the Lands:

- the sanitary and storm sewer system, as required by the City under the City’s Subdivision, Development and Servicing Bylaw No. 7900, as amended from time to time;
- the Roads and Sidewalks, including the internal roads contemplated under section 8.1;
- the streetscapes and landscapes; and
- the common amenities.

The Developer covenants and agrees that it will, at its cost, repair, maintain, clean and replace the works set out in section 5.3 above and that the Lands will not be used or occupied unless and until the Developer grants the City a section 219 covenant securing the ongoing repair, maintenance, cleaning and replacement obligations for the works set out in section 5.3 above in substantially the form attached to this Agreement as Schedule “O”.

## 6. OFFSITE INFRASTRUCTURE IMPROVEMENTS

6.1 The Developer will complete the offsite infrastructure improvements at each phase of the Development as set out in the Offsite Infrastructure Improvements Plan attached to this Agreement as Schedule “F”. Notwithstanding the works and services requirements associated with DP Phase 1, DP Phase 2, and DP Phase 3, indicated below, at the time of approval of subdivision to create a lot or lots

within each DP Phase, or at the time of each building permit application, directly attributable works and services requirements for each subdivision approval or building permit application will be reviewed by the City and any such additional directly attributable requirements may require additional performance security as a condition of subdivision approval or building permit issuance. All works and services required pursuant to this Agreement are to be designed and constructed in accordance with the City's Subdivision, Development and Servicing Bylaw No. 7900, as amended from time to time and the works and services are subject to review and approval by the City prior to construction, in its sole discretion.

6.2 The offsite infrastructure improvements shall be completed in phases as follows:

- (a) the Final Townhouse Building shall not be used or occupied unless and until the Developer has, to the satisfaction of the City:
- installed a watermain within the Development (the "Watermain"). For clarity, the Watermain shall loop along North Road and East Road with connections to Lakeshore Road, Bird Place, and Springrose Way, subject to Provincial regulatory approval for the construction of a bridge over Wilson Creek;
  - granted the City a statutory right of way over the portion of the Lands necessary to service the Watermain in the form attached to this Agreement as Schedule "N". For clarity, no other utility shall be allowed to run parallel within the statutory right of way area and all water service connections to a building or DP Phases shall be within the statutory right of way area;
  - installed a storm water connection to Lakeshore Road;
  - installed a sanitary connection to Lakeshore Road;
  - constructed Wilson Creek Linear Park trail from Bird Place bridge to the east property line, as illustrated in DP21-0184;
  - completed Springbrook Road dead-end curbing; and
  - constructed and installed the improvements to Cook Road (subject to Provincial regulatory approval for construction of a bridge over Wilson Creek), including:
    - a sidewalk from 648-654 Cook Road to Bird Place;
    - intersection improvements to Cook Road and Bird Place, including curb bulb-outs, road marking, signage and landscaping;
    - a sidewalk from Cook Road to Bird Place Bridge; and
    - a second left turn lane on Cook Road (Westbound), at the intersection of Cook Road and Gordon Drive, onto Gordon Drive, which shall include an additional turning light, pole, arm, signage, and paint lines or re-timing of left turn signal. The Developer shall provide bonding and the requirement shall be reviewed at full build-out;
- (b) Tower 3 shall not be used or occupied unless and until, the Developer has, to the satisfaction of the City:
- constructed a temporary traffic entrance to the Lands off of Lakeshore Road;
  - constructed a roundabout at Lakeshore Road (the "Roundabout");
  - submitted civil construction design plans for Lakeshore Road from Wilson Creek bridge to Barrera Road with class D cost estimate;
  - constructed a bridge over Wilson Creek connecting the internal roads of the Development to Bird Place (subject to Provincial regulatory approval);
  - closed Springrose Way to public vehicular traffic and installed emergency bollards to allow emergency vehicle access through Springrose Way (subject to Provincial regulatory approval for construction of a bridge over Wilson Creek);

- constructed a pedestrian crossing from Wilson Creek trail to the west side of Lakeshore Road; and
  - constructed a pedestrian crossing north of the Roundabout to the south corner of Rotary Beach; and
- (c) concurrently with the construction of each of the buildings in DP Phase 3, the Developer shall construct the Wilson Creek Linear Park trail from the bridge at Bird Place to Lakeshore Road to the satisfaction of the City. For clarity, the Developer is only required to construct the portion of the Wilson Creek Linear Park trail that lies adjacent to the building under construction and no building in DP Phase 3 shall be used or occupied unless and until the portion of the trail adjacent to that building is constructed to the satisfaction of the City.

## **7. ONSITE SERVICING**

7.1 The Developer will complete, to the satisfaction of the City, the onsite servicing at each phase of the Development as set out in the Onsite Servicing Plan attached to this Agreement as Schedule “G” (the “Onsite Servicing Works”).

7.2 The Onsite Servicing Works are subject to review and approval by the City prior to construction.

## **8. INTERNAL ROADS**

8.1 The Developer will construct the internal roads for the Development, including permanent and temporary roads, substantially in accordance with the Concept Plan attached to this Agreement as Schedule “A”.

## **9. PARKING**

9.1 The Developer will construct the parking for the Development substantially in accordance with the Phased Parking Plan attached to this Agreement as Schedule “I”.

## **10. SERVICING AGREEMENTS**

10.1 The Developer will, through servicing agreements entered into with the City, provide performance security for any off-site improvements and the construction of Wilson Creek Linear Park in accordance with the provisions of the City’s Subdivision, Development and Servicing Bylaw No. 7900, as amended from time to time

## **11. ASSIGNMENT/ ASSUMPTION**

11.1. The Developer covenants and agrees not to sell the Lands, or portion thereof, to which there are outstanding obligations under this Agreement, unless the purchaser agrees to assume the outstanding obligations of this Agreement for the Lands or portions thereof purchased.

11.2. Upon any sale of the Lands, or portion thereof:

- (a) the Developer, the purchaser of the Lands (or portions thereof) and the City shall enter into an assignment and assumption agreement substantially in the form attached to this Agreement as Schedule "L" (the Assignment and Assumption Agreement"), subject to the reasonable satisfaction of the City with respect to clause 3(a) of the Assignment and Assumption Agreement, under which the purchaser shall assume all of the Developer's obligations under this Master Development Agreement with respect to the Lands, or portion thereof purchased;
- (b) subject to receipt of the Assignment and Assumption Agreement, the City shall release the Developer from the obligations so assumed;and
- (c) if the purchaser replaces any existing security relating to the Lands, or portion thereof, which are assigned under this clause, to the City's satisfaction, the City shall release a comparable portion of the security provided by the Developer.

## **12. TERMINATION**

12.1. If the City does not approve development of the Lands as contemplated by the Concept Plan, the City covenants and agrees to promptly discharge this Agreement and all related covenants from title to the Lands and this Agreement shall be terminated.

## **13. PUBLIC BODY**

13.1. Nothing contained or implied within this Master Development Agreement shall prejudice or affect the duties, rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, orders or regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Master Development Agreement had not been executed and delivered. Without limiting the generality of the foregoing, nothing in this Master Development Agreement shall be construed as affecting or influencing in any way the decision of Council for the City with respect to approval of development of the Lands as contemplated by the Concept Plan.

13.2. Nothing in this Agreement shall relieve the Developer from any obligation or requirement arising under any applicable statute, bylaw or regulation in respect of the development of the Lands and of which the Developer is the owner at the relevant time. Without limiting the generality of the foregoing, the Developer shall remain fully responsible to ensure that the development of the Lands is in full compliance with all requirements of the bylaws of the City respecting land development, zoning, subdivision and building construction and the payment of development costs charges and others fees and charges as determined on the rates applicable at the appropriate time, regardless of the rates in force at the time of execution of this Agreement.

13.3. The parties acknowledge that the approving officer is an independent statutory officer, and that nothing in this Agreement shall be interpreted as prejudicing or affecting the duties and powers of the approving officer in respect of any application to subdivide theLands.

**14. INTERPRETATION**

14.1. In this Agreement:

- (a) the headings and captions are for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions;
- (b) the word "including" when following any general term or statement is not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar terms or matters but rather as permitting it to refer to other items or matters that could reasonably fall within its scope;
- (c) a reference to currency means Canadian currency;
- (d) a reference to a statute includes every regulation made pursuant thereto, all amendments to the statute or to any such regulation in force from time to time and any statute or regulation that supplements or supersedes such statute or any such regulation;
- (e) a reference to time or date is to the local time or date in Kelowna, British Columbia;
- (f) a word importing the masculine gender includes the feminine or neuter, and a word importing the singular includes the plural and vice versa;
- (g) a reference to approval, authorization, consent, designation, waiver or notice means written approval, authorization, consent, designation, waiver or notice; and
- (h) a reference to Part means a Part of this Agreement and the word Section means a separately enumerated provision within a Part, and the words Section or Part followed by a number or some combination of numbers and letters refers to a Section or Part of this Agreement.

**15. GENERAL PROVISIONS**

15.1. Notice: It is hereby mutually agreed that any notice required to be given under this Agreement will be deemed to be sufficiently given if:

- (a) delivered at the time of delivery; and
- (b) mailed from any government post office in the province of British Columbia by prepaid registered mail addressed as follows:

If to the City:

1435 Water Street  
Kelowna, BC V1Y 1J4

Attention: \_\_\_\_\_

Fax No.: \_\_\_\_\_

E-Mail: \_\_\_\_\_

If to the Developer:

200 - 1460 Pandosy Street

Kelowna, BC V1Y 1P3

Attention: Phil Milroy/Gail Temple

E-Mail: phil.milroy@westcorp.net/gtemple@westcorp.net

Unless otherwise specified herein, any notice required to be given under this Agreement by any party will be deemed to have been given if mailed by prepaid registered mail, or sent by facsimile transmission or other electronic means, or delivered to the address of the other party set forth on the first page of this Agreement or at such other address as the other party may from time to time direct in writing, and any such notice will be deemed to have been received if mailed or faxed or by other electronic means, 72 hours after the time of mailing or faxing of delivery by electronic means, and, if delivered, upon the date of delivery. If normal mail service or facsimile service is interrupted by strike, slow down, force majeure or other cause, then a notice sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the notice must utilize any other such services which have not been so interrupted or must deliver such notice in order to ensure prompt receipt thereof.

15.2. Time: Time is to be the essence of this Agreement.

15.3. Binding Effect: This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees and successors in title.

15.4. The Developer covenants and agrees that any charge to be registered in favour of the City pursuant to this Agreement shall receive priority over any financial charges, and the Developer shall take any and all steps necessary to obtain such priority.

15.5. Waiver: The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

15.6. Cumulative Remedies: No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

15.7. Entire Agreement: This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date hereof with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect to the subject matter hereof and there are no oral or written agreements, promises, warranties, terms, conditions, representations or collateral agreements whatsoever, express or implied, other than those contained in this Agreement.

15.8. Further Assurances: Each of the parties will do, execute or deliver or cause to be done, executed and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

15.9. Amendment: No amendment, waiver, termination or variation of the terms, conditions, warranties, covenants, agreements and undertakings set out herein will be of any force or effect unless they are in writing and duly executed by all parties to this Agreement.

15.10. Law Applicable: This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

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

Officer Signature(s)

Execution Date

Party(ies) Signature(s)

Y M D

**CITY OF KELOWNA**  
by its authorized signatory(ies)

\_\_\_\_\_

\_\_\_/\_\_\_/\_\_\_

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

(as to both signatures)

Officer Signature(s)

Execution Date

Party(ies) Signature(s)

Y M D

**Westcorp On The Lake Limited Partnership, by its General Partner, Westcorp On The Lake Inc.**  
by its authorized signatory

\_\_\_\_\_

\_\_\_/\_\_\_/\_\_\_

\_\_\_\_\_  
Name: **Phil Milroy**

Officer Signature(s)

Execution Date

Party(ies) Signature(s)

Y M D

**Westcorp On The Lake Inc.**  
by its authorized signatory

\_\_\_\_\_

\_\_\_/\_\_\_/\_\_\_

\_\_\_\_\_  
Name: **Phil Milroy**

SCHEDULE "A"  
Concept Plan







SCHEDULE "B"  
Section 219 No-Build Covenant

TERMS OF INSTRUMENT—PART 2

COVENANT  
SECTION 219 LAND TITLE ACT

THIS AGREEMENT dated for reference \_\_\_\_\_ day of \_\_\_\_\_, 2021

BETWEEN:

**WESTCORP ON THE LAKE INC.** (Inc. # A0075763), having an office at 1460 Pandosy Street, Kelowna, BC V1 1P3

(the “**Transferor**”)

AND:

**CITY OF KELOWNA** a municipal corporation incorporated pursuant to the laws of British Columbia and having an office at 1435 Water Street, Kelowna, BC V1Y 1J4

(the “**City**”)

WHEREAS:

- A. The Transferor is the registered owner of those lands and premises lying within the city of Kelowna, as more particularly described in Item 2 of Part 1 of this instrument (the “**Lands**”).
- B. The City, a municipality incorporated in the Province of British Columbia by Letters Patent, has requested that the Transferor, as owner of the Lands, enter into this Covenant with the City concerning the use of the Lands, and the Transferor has agreed to do so.
- C. The City wishes to ensure that any subdivision or land development has no detrimental environmental, financial, or infrastructure impacts on the municipality and that the development proposed by the Transferor will provide benefits to the City including, but not limited to public recreational opportunities, protection of wildlife habitat, and enhanced infrastructure
- C. The City has requested that the Transferor, as owner of the Lands, enter into this Covenant with the City restricting the subdivision and development of the Lands, and the Transferor has agreed to do so.
- D. Section 219 of the *Land Title Act* (BC) permits the registration of a covenant in favour of a municipality in respect of the subdivision and development of land.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00) now paid by the City to the Transferor, receipt of which is hereby acknowledged, the Transferor covenants and agrees with the City pursuant to Section 219 of the Land Title Act as follows:

1. Transferor covenants and agrees with the City that no buildings, structures or improvements of any kind shall be constructed on the Lands, and the Transferor will not develop, subdivide or use the Lands.
2. Notwithstanding the restrictions set out in Section 1 above, the Transferor may develop, and the Transferee hereby consents to development of, the Lands, including, but not limited to, construction of buildings, structures, or improvements, pursuant to the terms of a Master Development Agreement entered into between the Transferor and the City dated \_\_\_\_\_, 2022 (the "Master Development Agreement"), a copy of which is attached to this Agreement as Schedule A.
3. The Transferor covenants and agrees that compliance with the terms and conditions of this Covenant does not constitute compliance with the obligations which continue in full force and effect that the Transferor pay development cost charges and all taxes, rates, fees and charged as would be applicable to any other development in the City in connection with any and all use, building, subdivision or development of the Lands.
5. This Agreement shall be a covenant running with the Lands, including all parts into which the Lands are subdivided or consolidated and will enure to the benefit of and be binding upon the owners from time to time of any parcel forming part of the Lands.
6. The Transferor hereby releases the City and shall indemnify and save harmless the City and its councillors, officers, employees and agents from any claim of any nature by the Transferor or any other person, that may be made against the City or its councillors, officers, employees and agents in connection with the granting or existence or enforcement of this Agreement or breach by the Transferor of the covenants in this Agreement.
7. Nothing in this Covenant affects the City's rights and powers in the exercise of its statutory functions under its statutes, bylaws, resolutions, orders and regulations, all of which may be fully exercised in relation to the Lands as if this Covenant had not been granted, provided they are not inconsistent with the Master Development Agreement.
8. This Covenant shall restrict building on the Lands in the manner provided herein, notwithstanding any right or permission to the contrary contained in any bylaw of the City.
9. The parties agree that this Covenant creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of this Covenant. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
10. The Transferor will, at its sole cost, do or cause to be done all acts reasonably necessary to register this Covenant against title to the Lands with priority over all financial charges, liens and encumbrances registered or pending registration at the time of application for registration of this Covenant against title to the Lands.
11. An alleged waiver of any breach of this Covenant is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Covenant does not operate as a waiver of any other breach of this Covenant.

12. This Covenant and the Master Development Agreement constitute the entire agreement between the parties regarding the subject-matter thereof.
13. This Covenant binds the parties to it and their respective successors, heirs, executors, administrators and permitted assigns, provided that the Transferor is only liable for breaches of this Covenant and the Master Development Agreement that occur while the Transferor is the registered owner of the Lands.
14. Time is of the essence of this Covenant.
15. The Covenant is not intended to create a partnership, joint venture or agency between the Transferor and the City.
16. Whenever the masculine singular pronoun is used in this agreement, it includes and means the plural, feminine, body corporate or body politic as the context may require. The "City" includes and means its officers, employees, servants, agents, councilors, directors, successors, and assigns. The "Transferor" includes and means any of its successors, heirs, executors, administrators, and assigns.
17. If any section, subsection, clause or phrase of this Covenant is for any reason held to be invalid by the decision of a Court of competent jurisdictions, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed and delivered this Covenant under seal by executing Part 1 of the *Land Title Act* Form C to which this Covenant is attached and which forms part of this Covenant.

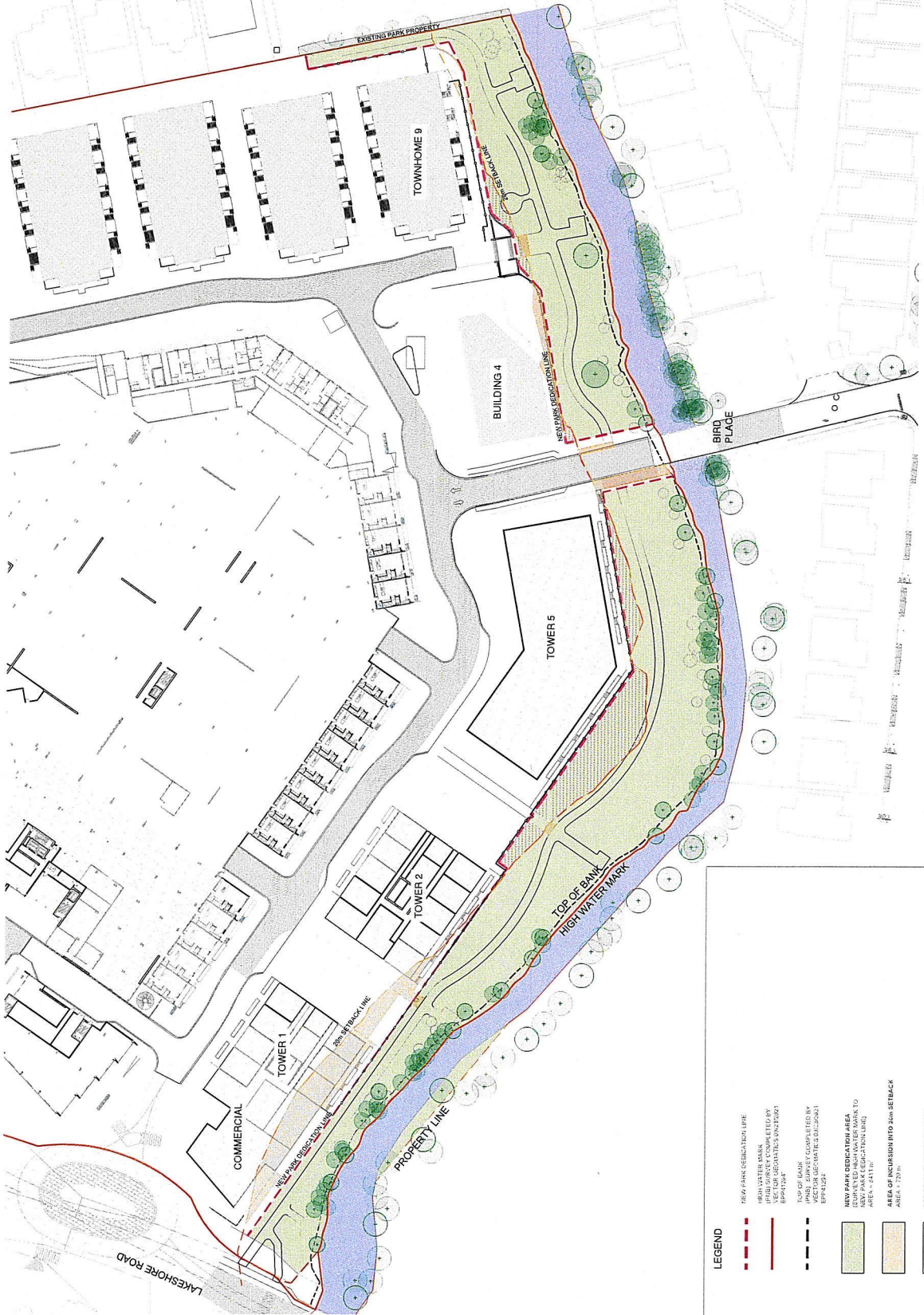
SCHEDULE "C"  
Wilson Creek Linear Park Plan



PROJECT: LAKESHORE DEVELOPMENT - WILSON CREEK LINEAR PARK  
 HELD UNDER REGISTRATION

HABITAT RESTORATION COMPENSATION AREA PLAN

DATE: 2021.11.22  
 SCALE: 1:500  
 SHEET: AS  
 OF: 14



**LEGEND**

	NEW PARK SEGREGATION LINE
	PROBABLE WATER MARK AREA BETWEEN PROBABLE WATER MARK AND SECTION SEGREGATION LINE (SEE EPP41204)
	TOP OF BANK AREA BETWEEN TOP OF BANK AND SECTION SEGREGATION LINE (SEE EPP41204)
	NEW PARK RESTORATION AREA COMPENSATION AREA FOR LOSS OF HABITAT FROM DEVELOPMENT AREA: 1.24110
	AREA OF INCURSION INTO 20M SETBACK AREA: 1.720
	COMPENSATION RESTORATION AREA BETWEEN 20M SETBACK AND SECTION SEGREGATION LINE AREA: 1.480

**SCHEDULE "D"**  
**Parks Maintenance and Operations Agreement**



**PARK MAINTENANCE & OPERATIONS AGREEMENT**

This Agreement dated for reference \_\_\_\_\_, 2013, is

BETWEEN:

**WESTCORP ON THE LAKE INC.,**  
200-8215 112 St NW  
Edmonton, AB T6G 2C8

(the "Developer")

AND:

**CITY OF KELOWNA,**  
1435 Water Street,  
Kelowna, British Columbia, V1Y 1J4

(the "City")

WHEREAS:

A. The Developer is developing land in the City of Kelowna legally described as:

PID: 029-373-301 Lot 1 District Lot 134 ODYD Plan EPP41204

(the "Land");

B. The Developer will be transferring to the City that portion of the Land shown outlined in bold on the plan attached as Schedule "A" to this Agreement for the purposes of a public park (the "Park");

C. The Developer has voluntarily agreed to install, maintain and operate a system of works and services on the Park on the terms and conditions set out in this Agreement;

THIS AGREEMENT is evidence that in consideration of \$1.00 paid by the City to the Developer and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Developer, the City and the Developer covenant and agree as follows:

### **Construction & Maintenance of Works**

1. The Developer covenants and agrees, at its sole cost and expense, to carry out and complete the installation, maintenance and operation of the works and services set out in Schedule "B" to this Agreement on the Park (the "Works").
2. The Developer covenants and agrees, to operate and maintain the Park and the Works, to:
  - (a) commence installation, operation and maintenance of the Works on or before the date the City takes title to the Park pursuant to an Option Agreement relating to the Park land (the "Commencement Date");
  - (b) at the time of installation of the Works, the Developer shall assess the Park for any hazardous trees, and shall remove any trees deemed hazardous at such time;
  - (c) maintain and repair the Works and so they are safe for the passage of the public;
  - (d) mow grass as required to ensure that it does not exceed a height of 8 inches from the surface of the ground;
  - (e) prune trees and shrubs as required;
  - (f) install hardware cloth around trees to prevent beaver damage;
  - (g) provide adequate litter bins and clean up litter as required; litter bins shall be inspected at least daily from April to October and at least twice per week during the rest of the year;
  - (h) advise the City of any pests creating issues within the Park;
  - (i) remediate any vandalism within the Park;
  - (j) provide safety and security measures to ensure the Park is safe for public access;
  - (k) obtain, maintain and comply with all federal, provincial and local government permits and approvals required under applicable enactments, laws, statutes and regulations as may be necessary to perform the Works and any other obligations under this Agreement.

### **City Contribution for Works**

3. The Developer acknowledges and agrees that the Developer has voluntarily agreed to perform the installation, operations and maintenance of the Works at its own cost and expense on the terms and conditions contained in this Agreement. Except as set out in this Agreement, the City has no obligation to install, maintain or operate the Works or to make a contribution to the Developer for the Developer's performance of the terms and conditions in this Agreement.
4. During the Term, the City shall be responsible for the maintenance, repair and operation of the Works and the Park as follows:
  - (a) hazardous tree assessment and removal;
  - (b) installation of any signs or improvements other than as set out in Schedule B;

(c) pest control.

5. After the Term, the City shall be responsible for the maintenance, repair and operation of the Works and the Park as follows:
- (a) all those items set out in section 2 and 4 of this Agreement; provided, however, that the City shall only be required to repair and maintain the Park and the Works to the City's standards and specifications, and not to a higher level if the Park and Works have been constructed to a higher level.

#### **Timeframe**

6. The parties agree that:
- (a) the Developer's obligations under this Agreement shall be for a period of 5 years from the Commencement Date (the "Term"); and,
  - (b) at the end of the Term, the City and Developer may extend the time of the Developer's obligations as agreed.

#### **Developer's Risk**

7. The Developer acknowledges and agrees that the City does not, by its approvals, inspections or acceptance of the Works warrant or represent that the Works are in compliance with any enactment or other law or as to the quality, fitness for purpose, adequacy or safety of the Works, or that the Works are without fault or defect, and the Developer acknowledges and agrees that all approvals and inspection of the Works given or made by the City are for the sole benefit of the City and in no way relieve the Developer from constructing and installing the Works in accordance with this Agreement.

#### **Indemnity and Hold Harmless**

8. The Developer shall:
- (a) defend, indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of the obligations of the Developer pursuant to this Agreement;
  - (b) be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of the obligations of the Developer pursuant to this Agreement;
  - (c) indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against all expenses that may be incurred by reason of liens, non-payment for labour or materials, federal or provincial taxes, workers' compensation assessments, employment insurance or union dues resulting from the Developer's obligations pursuant to this Agreement

This indemnity will survive the termination of this Agreement in relation to any matter arising out of or caused by any action taken or not taken before the end of the Term.

9. The City shall:

- (a) defend, indemnify and hold harmless the Developer, its directors, officers, employees and agents from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of the obligations of the City pursuant to this Agreement;
- (b) be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the Developer, its directors, officers, employees and agents including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of the obligations of the City pursuant to this Agreement;
- (c) indemnify and hold harmless the Developer, its directors, officers, employees and agents from and against all expenses that may be incurred by reason of liens, non-payment for labour or materials, federal or provincial taxes, workers' compensation assessments, employment insurance or union dues resulting from the City's obligations pursuant to this Agreement.

This indemnity will survive the termination of this Agreement in relation to any matter arising out of or caused by any action taken or not taken before the end of this Agreement.

**Developer To Provide**

- 10. The Developer shall procure and maintain, at its own expense and cost, the insurance policies listed in the following section of this agreement, with limits no less than those shown in the respective items, unless in connection with the performance of some particular part of this Agreement the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this Agreement until the date that the City certifies in writing completion of the terms of this Agreement or such further period as may be specified by the City.

**Insurance**

- 11. As a minimum, the Developer shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:
  - (a) Workers' Compensation Insurance covering all employees of the Developer engaged in this Agreement, in accordance with the statutory requirements of the province or territory having jurisdiction over such employees;
  - (b) Comprehensive General Liability Insurance:
    - i. providing for an inclusive limit of not less than \$5,000,000.00 for each occurrence or accident;
    - ii. providing for all sums which the Developer shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this Agreement, or any operations carried on in connection with this Agreement;

- iii. including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability; and,
  - iv. including a Cross Liability clause providing that the inclusion of more than one insured party shall not in any way affect the rights of any other insured party hereunder, in respect to any claim, demand, suit or judgement made against any of the insured parties.
- (c) Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Developer directly or indirectly in the performance of this Agreement. The limit of liability shall not be less than \$2,000,000 inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.
- 12. The policies required by Section 11 above shall provide that the City is named as an additional insured party thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.
  - 13. The Developer shall require each of its sub-contractors to provide comparable insurance to that set forth under Section 11 of this Agreement.
  - 14. The Developer agrees to submit a policy of insurance as shown in Schedule "C" (the "Certificate") for itself and all of its sub-contractors to the City prior to the commencement of any Works relating to this Agreement. Such Certificate shall provide that 30 days' written notice shall be given to the City, prior to any material changes or cancellations of any such policy or policies.
  - 15. After reviewing the Developer's Certificate, the City may require other insurance or alterations to any applicable insurance policies in force during the period of this contract and will give notifications of such requirement. Where other insurances or alterations to any insurance policies in force are required by the City and result in increased insurance premium, such increased premium shall be at the Developer's expense.
  - 16. The Developer may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City. The Developer shall ensure that all of its sub-contractors are informed of and comply with the City's requirements set out in this Agreement.
  - 17. All insurance, which the Developer is required to obtain with respect to this Agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the Province of British Columbia.
  - 18. If the Developer fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Developer.
  - 19. The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Developer or any sub-contractor shall not be held to waive or release the Developer or sub-contractor from any of the provisions of the insurance requirements of this Agreement with respect to the liability of the Developer. Any insurance deductible maintained by the Developer or any sub-contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Developer as stated in section 18 of this Agreement.

## **Assignment**

20. Subject to section 21 of this Agreement, the Developer must not assign its rights under this Agreement without the prior written consent of the City.
21. The Developer intends to develop a series of strata projects on a portion of the Land. The City agrees that the Developer can arrange for one or more of the strata corporations to assume a portion of the cost relating to the maintenance and operation of the Park and the Works, provided the Developer continues to have the primary obligation over the maintenance and operation of the Park and Works. The Developer also intends to develop a hotel and one or more rental complexes on a portion of the Land. If the Developer sells its entire interest in the Land, the City agrees that the Developer may assign this Agreement to a party who obtains an interest in the hotel or a rental complex, on the condition that such party assumes the obligations of the Developer under this Agreement. If the Developer assigns this Agreement as set out above, it shall not have any further obligations under the Agreement.

### **General**

22. This Agreement will bind and benefit each party to this Agreement, and its respective successors, administrators, employees, agents, and contractors.
23. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and a decision that it is invalid shall not affect the validity of the remainder of this Agreement.
24. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.
25. Waiver by the City of any breach of any term, covenant or condition of this Agreement by the Developer must not be deemed to be a waiver of any subsequent default by the Developer. Failure by the City to take any action in respect of any breach of any term, covenant or condition of this Agreement by the Developer must not be deemed to be a waiver of such term, covenant or condition.
26. Time is of the essence of this Agreement.



**Schedule A**

**Park**

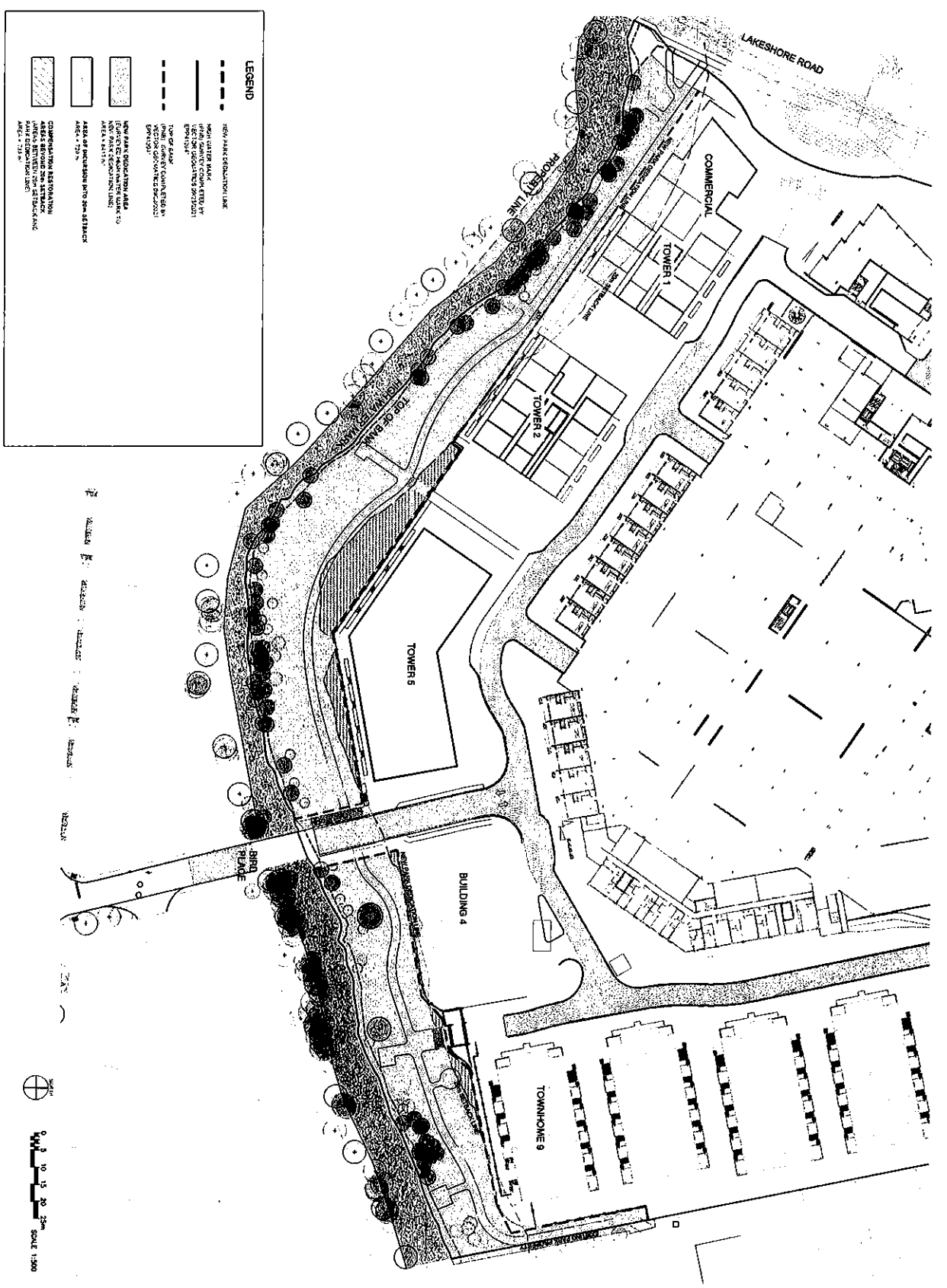




**Schedule B**  
**Works and Services**







wsp

**LAKESHORE DEVELOPMENT -**  
**WILSON CREEK LINEAR PARK**  
 HABITAT RESTORATION  
 COMPENSATION AREA PLAN

PROJECT: L4  
 DATE: 2011-09-28  
 SCALE: 1:500  
 SHEET: 25  
 TOTAL SHEETS: 28

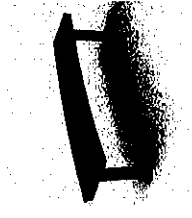
REFERENCE IMAGERY



Omega Fence Classic, 4' and 6' heights



Magin Opden Bench



Magin Opden Bench, Pedestal mount



Mountain Ash Boulders

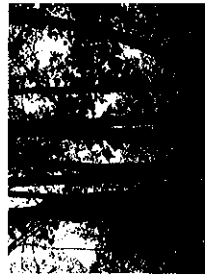


Mountain Ash Retaining Walls

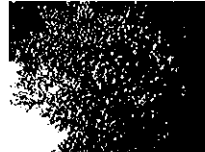


Low Mountain Ash Seat Wall

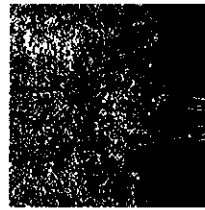
PLANT PALETTE



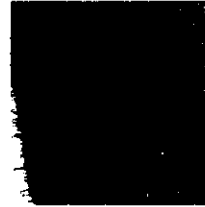
Acer glabrum



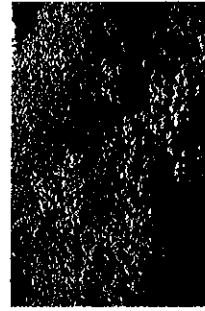
Amelanchier alnifolia



Betula occidentalis



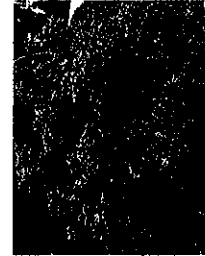
Comus senecio



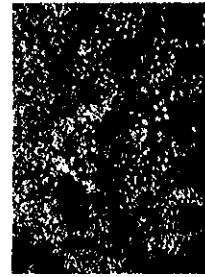
Croatalagus douglasii



Festuca idahoensis



Mahonia aquifolium



Philadelphus lewisii



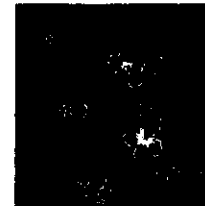
Pinus ponderosa



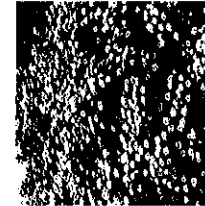
Populus trichocarpa



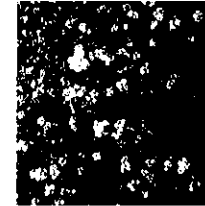
Pseudotsuga\_menziesii



Rosa acicularis ssp. sayi



Spiraea betulifolia



Symphoricarpos albus



LAKESHORE DEVELOPMENT -  
WILSON CREEK LINEAR PARK  
LEWISTON, ID.

REFERENCE IMAGERY  
AND PLANT PALETTE

**Schedule C**

**Certificate of Insurance**



1435 Water Street  
Kelowna, B.C. V1Y 1J4  
250 469-8500  
kelowna.ca

City staff to complete prior to circulation City Dept.: _____ Dept. Contact: _____ Project/Contract/Event: _____
---

**Insured**

Name:	_____
Address:	_____

**Broker**

Name:	_____
Address:	_____

**Location and nature of operation and/or contract reference to which this Certificate applies:**

--

Type of Insurance	Company & Policy Number	Policy Dates		Limits of Liability/Amounts
		Effective	Expiry	
<b>Section 1</b> Comprehensive General Liability including: <ul style="list-style-type: none"> <li>• Products/Completed Operations;</li> <li>• Blanket Contractual;</li> <li>• Contractor's Protective;</li> <li>• Personal Injury;</li> <li>• Contingent Employer's Liability;</li> <li>• Broad Form Property Damage;</li> <li>• Non-Owned Automobile;</li> <li>• Cross Liability Clause.</li> </ul>				Bodily Injury and Property Damage \$ <u>5,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
<b>Section 2</b> Automobile Liability				Bodily Injury and Property Damage \$ <u>2,000,000</u> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company (Insurer or Broker)

\_\_\_\_\_  
Signature of Authorized Signatory

\_\_\_\_\_  
Date

**SCHEDULE "E"**  
**Roads and Sidewalks Statutory Rights of Way**



LAND TITLE ACT  
FORM C (Section 233) CHARGE

Aug-06-2014 08:44:42.004

GENERAL INSTRUMENT - PART 1 Province of British Columbia

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Bradley Cameron  
Cronquist  
MN4MPW

Digitally signed by Bradley Cameron  
Cronquist MN4MPW  
DN: c=CA, cn=Bradley Cameron  
Cronquist MN4MPW, o=Lawyer,  
ou=Verify ID at www.juricart.com/  
LKUP.cfm?id=MN4MPW  
Date: 2014.08.05 14:34:25 -07'00'

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

PUSHOR MITCHELL LLP, Lawyers  
301 - 1665 Ellis Street

Phone 250-762-2108  
Client No. 10332  
BCC/50895.2-mlw (SRW)

Kelowna BC V1Y 2B3

Document Fees: \$73.50

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]

029-326-222 THAT PART OF DISTRICT LOT 134, ODYD, SHOWN ON PLAN EPP41104

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

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

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

WESTCORP ON THE LAKE INC. (INC. NO. A75763)

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

CITY OF KELOWNA

1435 WATER STREET

KELOWNA

V1Y 1J4

BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

NIL

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)

Bradley C. Cronquist  
Barrister & Solicitor  
3rd Floor, 1665 Ellis Street  
Kelowna, BC V1Y 2B3

Execution Date		
Y	M	D
14	07	11

Transferor(s) Signature(s)

WESTCORP ON THE LAKE INC.,  
by its authorized signatory(ies):

Name: Phil Milroy

Name:

As to all signatures

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**

**STATUTORY RIGHT OF WAY – Public Access**

THIS COVENANT dated for reference the \_\_ day of \_\_\_\_\_, 20\_\_

BETWEEN:

WESTCORP ON THE LAKE INC. (Inc. No. A75763)  
300 -1460 Pandosy Street, Kelowna, B.C. V1Y 1P3

(the “Grantor”)

AND:

CITY OF KELOWNA, a municipality under the laws of British  
Columbia, having offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

(the “City”)

RECITALS:

- A. The Grantor owns the land located in the City of Kelowna, British Columbia legally described as:  
PID: 026-326-222  
That Part of District Lot 134, ODYD, Shown on Plan EPP41104  
  
(the “Land”);
- B. The Grantor intends to construct a road (including upon a bridge) with adjoining sidewalks on the Land (the “Roads and Sidewalks”);
- C. Section 218 of the *Land Title Act*, R.S.B.C., c. 250 enables the Grantor to grant in favour of the City an easement without a dominant tenement known as a statutory right of way;
- D. This statutory right of way is necessary for the operation and maintenance of the City’s undertaking.

THIS AGREEMENT is evidence that, pursuant to s. 218 of the *Land Title Act*, and in consideration of ONE DOLLAR (\$1.00) paid by the City to the Grantor, and other good and valuable consideration (the receipt and sufficiency of which the Grantor hereby acknowledges), the Grantor grants to and covenants with the City as follows:

- 1. **Grant of Statutory Right of Way** - The Grantor hereby grants, conveys and confirms to the City in perpetuity the full, free and uninterrupted right, liberty, easement and statutory right of way (“Statutory Right of Way”) for the City, its officers, employees, contractors and agents, in common with the Grantor, at all times hereafter from time to time at their will and pleasure to enter, go, be on, pass and repass, with or without vehicles, personal property and equipment, upon, over, under and across the Land (the “Right of Way Area”) to:

- (a) access the Roads and Sidewalks and to permit the public to use the Roads and Sidewalks;
- (b) permit the public (without the need for any express invitation) to have use of the Right of Way Area by foot, bicycle, and other means of conveyance, including motor vehicles.

**2. Grantor's Obligations - The Grantor must:**

- (a) not do or permit to be done anything in the Right of Way Area which in the opinion of the City, acting reasonably, may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of, the Right of Way Area or the rights granted under this Statutory Right of Way;
- (b) trim or, if the City requires, permit the City to trim or cut down any tree or other growth on the Right of Way Area which in the opinion of the City constitutes or may constitute a danger, impairment or obstruction to the Right of Way Area;
- (c) permit the City to peaceably hold and enjoy the rights hereby granted;
- (d) permit the City to do all other things in the Right of Way Area which in the reasonable opinion of the City are reasonably necessary for the safe use and preservation of the Right of Way Area for the purposes of the Statutory Right of Way;
- (e) not deposit or place garbage, debris or other material on the Right of Way Area;
- (f) at its own expense, do or cause to be done all acts necessary to grant priority to this Statutory Right of Way over all charges and encumbrances which are registered, or pending registration, against title to the Land, in the applicable Land Title Office, save and except those as have been approved in writing by the City or have been granted in favour of the City; and
- (g) at its own expense, do or execute or cause to be done or executed all such further and other lawful acts, deeds, things, conveyances and assurances whatsoever for better assuring to the City the rights, liberties and statutory right of way hereby granted.

**3. City's Obligations - The City:**

- (a) covenants and agrees that, notwithstanding the blanket grant in Paragraph 1. herein, the City will restrict its use of the Right of Way Area to the Roads and Sidewalks constructed by the Grantor;
- (b) must indemnify and save harmless the Grantor from and against all liability for losses, costs, actions, causes of action, claims, demands, liabilities and expenses which the Grantor may suffer or incur due to:
  - (i) any default by the City in observing or performing the City's obligations under this Agreement; or,
  - (ii) use of the Right of Way area by members of the public, as public roads and sidewalks.

4. **Grantor Indemnity** – The Grantor covenants to and does hereby indemnify and save harmless the City, its elected officials, officers, and employees at all times from all losses, damages, actions, suits, claims, demands, costs, expenses, fees and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the City is or may become liable, incur or suffer by reason of any injury to person (including death) or loss or damage to property or economic loss arising directly or indirectly from any act, omission, negligence or default of the Grantor in connection with or in consequence of this Agreement, save and except to the extent caused by any act, omission, negligence or default of the City.
5. **No Obligation to Maintain** - No right herein granted to or reserved by the City requires the City to clean, repair or maintain the Roads and Sidewalks or the Right of Way Area, except as expressly provided herein.
6. **City's Rights** - The City:
  - (a) is entitled to peaceably hold and enjoy the rights, liberties and Statutory Right of Way hereby granted without hindrance, molestation or interruption by the Grantor or any person, firm or corporation claiming by, through, under or in trust for the Grantor; and
  - (b) on default by the Grantor of any of its obligations under this Agreement, may, but is not obliged to, rectify the default, provided that, except in the case of an emergency, the City must first give 20 days prior notice to the Grantor specifying the default and requiring it to be remedied. The Grantor shall reimburse the City for its reasonable, out of pocket expenses incurred in remedying such a default.
7. **No Waiver** - No waiver of default by either party is effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default of the other is to be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.
8. **No Effect on Powers** - This Agreement does not:
  - (a) affect or limit the discretion, rights, duties or powers of the City under the common law or any statute, bylaw, or other enactment;
  - (b) affect or limit the common law or any statute, bylaw or other enactment applying to the Land; or
  - (c) relieve the Grantor from complying with the common law or any statute, bylaw or other enactment.

9. **Notice** - Any notice to be given pursuant to this Agreement must be in writing and may be delivered personally or sent by prepaid mail. The addresses of the parties for the purpose of notice are the addresses hereinbefore set out. If notice is delivered personally, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is mailed, it is to be deemed given 5 days after mailing by deposit at a Canada Post mailing point or office. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice must do so by personal delivery as provided in this section. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the address therein specified is to be deemed to be the address of such party for the giving of notice.
10. **Severance** - If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion is to be severed and the decision that it is invalid does not affect the validity of the remainder of this Agreement.
11. **Entire Agreement** - No amendment of this Agreement, is valid or binding unless in writing and executed by the parties.
12. **Headings** - The headings in this Statutory Right of Way are inserted for reference and convenience only and must not be used to construe or interpret the provisions hereof.
13. **Interpretation** - In this Agreement:
  - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
  - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
  - (c) reference to a particular numbered section or article is a reference to the correspondingly numbered or lettered article, or section of this Agreement;
  - (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
  - (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
  - (f) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
  - (g) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
  - (h) time is of the essence;
  - (i) all provisions are to be interpreted as always speaking;

- (j) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (k) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (l) where the word "including" is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word "including".

14. **Interest In Land and Enurement** - The Statutory Right of Way runs with the Land and each and every part into which the Land may be subdivided or consolidated by any means (including by deposit of strata plan or leasehold plan of any kind), but no part of the fee of the Land passes to or is vested in the City under or by this Agreement and the Grantor may fully use the Right of Way Area and Land subject only to the common law and the rights, obligations and restrictions expressly set out in this Agreement. This Statutory Right of Way enures to the benefit of and is binding on the parties notwithstanding any rule of law or equity to the contrary.

**Execution** - As evidence of their agreement to be bound by the above terms, the Grantor and Grantee have executed and delivered this Agreement by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

Dec-11-2013 09:27:32.007

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

**Bradley Cameron**  
Cronquist  
UWVUW8  
Digitally signed by Bradley Cameron  
Cronquist UWVUW8  
DN: c=CA, cn=Bradley Cameron  
Cronquist UWVUW8, o=Lawyer,  
ou=Verify ID at www.juricert.com/  
LKUP.cfm?id=UWVUW8  
Date: 2013.12.10 15:24:03 -08'00'

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

**PUSHOR MITCHELL LLP, Lawyers**

**301 - 1665 Ellis Street**

Phone 250-762-2108

Client No. 10332

BCC/50895.2-mlw (SRW - Public Access)

Kelowna

BC V1Y 2B3

Document Fees: \$73.50

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

**NO PID NMBR LOT A, DISTRICT LOT 134, ODYD, PLAN EPP32434**

STC? YES

Related Plan Number: **EPP32434**

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Statutory Right of Way**

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

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**WESTCORP ON THE LAKE INC. (INC. NO. A75763)**

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

**CITY OF KELOWNA**

**1435 WATER STREET**

**KELOWNA**

**BRITISH COLUMBIA**

**V1Y 1J4**

**CANADA**

7. ADDITIONAL OR MODIFIED TERMS:

**NIL**

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)

Bradley C. Cronquist

Barrister & Solicitor

3rd Floor, 1665 Ellis Street

Kelowna, BC V1Y 2B3

Execution Date

Y	M	D
13	09	04

Transferor(s) Signature(s)

**WESTCORP ON THE LAKE INC.,  
by its authorized signatory(ies):**

Print Name: Gail Temple

Print Name:

As to both signatures if more than one

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.

**LAND TITLE ACT  
FORM D**

**EXECUTIONS CONTINUED**

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

\_\_\_\_\_  
Jacqueline Joy Bytelaar  
Commissioner for Taking Affidavits in BC  
  
1435 Water Street  
Kelowna, BC V1Y 1J4

Y	M	D
13	09	26

CITY OF KELOWNA, by its authorized signatory(ies):

\_\_\_\_\_  
Print Name: Walter Gray, Mayor

\_\_\_\_\_  
Print Name: Karen Needham, Deputy City Clerk

As to both signatures if more than one

\_\_\_\_\_

\_\_\_\_\_

**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  
STATUTORY RIGHT OF WAY – Public Access**

THIS COVENANT dated for reference the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

BETWEEN:

WESTCORP ON THE LAKE INC. (Inc. No. A75763)  
300 -1460 Pandosy Street, Kelowna, B.C. V1Y 1P3

(the “Grantor”)

AND:

CITY OF KELOWNA, a municipality under the laws of British  
Columbia, having offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

(the “City”)

RECITALS:

- A. The Grantor owns the land located in the City of Kelowna, British Columbia legally described as:  
PID: NO PID NUMBER  
Lot A, District Lot 134, ODYD, Plan EPP32434  
(the “Land”);
- B. The Grantor intends to construct a series of circulation roads with adjoining sidewalks on the Land (the “Roads and Sidewalks”). For greater certainty, the Roads and Sidewalks shall be limited to:
- (a) roads that are solely for circulation throughout the Land and shall not include roads that provide access to a residential complex, a park or a pool located on the Land;
  - (b) sidewalks that are adjoining a road described in (a) above, and shall not include sidewalks within a residential complex or development, or sidewalks that are on, in, around or lead to a park, pool or other amenity located on the Land;
- C. Section 218 of the *Land Title Act*, R.S.B.C., c. 250 enables the Grantor to grant in favour of the City and easement without a dominant tenement known as a statutory right of way;
- D. This statutory right of way is necessary for the operation and maintenance of the City’s undertaking.

THIS AGREEMENT is evidence that, pursuant to s. 218 of the *Land Title Act*, and in consideration of ONE DOLLAR (\$1.00) paid by the City to the Grantor, and other good and valuable consideration (the receipt and sufficiency of which the Grantor hereby acknowledges), the Grantor grants to and covenants with the City as follows:

1. **Grant of Statutory Right of Way** - The Grantor hereby grants, conveys and confirms to the City in perpetuity the full, free and uninterrupted right, liberty, easement and statutory right of way ("Statutory Right of Way") for the City, its officers, employees, contractors and agents, in common with the Grantor, at all times hereafter from time to time at their will and pleasure to enter, go, be on, pass and repass, with or without vehicles, personal property and equipment, upon, over, under and across the Land (the "Right of Way Area") to:
  - (a) access the Roads and Sidewalks and to permit the public to use the Roads and Sidewalks;
  - (b) permit the public (without the need for any express invitation) to have use of the Right of Way Area by foot, bicycle, and other means of conveyance, including motor vehicles.
  
2. **Grantor's Obligations** - The Grantor must:
  - (a) not do or permit to be done anything in the Right of Way Area which in the opinion of the City, acting reasonably, may interfere with, injure or impair the operating efficiency of, or obstruct access to or the use of, the Right of Way Area or the rights granted under this Statutory Right of Way;
  - (b) trim or, if the City requires, permit the City to trim or cut down any tree or other growth on the Right of Way Area which in the opinion of the City constitutes or may constitute a danger, impairment or obstruction to the Right of Way Area;
  - (c) permit the City to peaceably hold and enjoy the rights hereby granted;
  - (d) permit the City to do all other things in the Right of Way Area which in the reasonable opinion of the City are reasonably necessary for the safe use and preservation of the Right of Way Area for the purposes of the Statutory Right of Way;
  - (e) not deposit or place garbage, debris or other material on the Right of Way Area;
  - (f) at its own expense, do or cause to be done all acts necessary to grant priority to this Statutory Right of Way over all charges and encumbrances which are registered, or pending registration, against title to the Land, in the applicable Land Title Office, save and except those as have been approved in writing by the City or have been granted in favour of the City; and
  - (g) at its own expense, do or execute or cause to be done or executed all such further and other lawful acts, deeds, things, conveyances and assurances whatsoever for better assuring to the City the rights, liberties and statutory right of way hereby granted.
  
3. **City's Obligations** - The City:
  - (a) covenants and agrees that, notwithstanding the blanket grant in Paragraph 1. herein, the City will restrict its use of the Right of Way Area to the Roads and Sidewalks constructed by the Grantor;

- (b) must indemnify and save harmless the Grantor from and against all liability for losses, costs, actions, causes of action, claims, demands, liabilities and expenses which the Grantor may suffer or incur due to:
    - (i) any default by the City in observing or performing the City's obligations under this Agreement; or,
    - (ii) use of the Right of Way area by members of the public, as public roads and sidewalks.
- 4. **Grantor Indemnity** – The Grantor covenants to and does hereby indemnify and save harmless the City, its elected officials, officers, and employees at all times from all losses, damages, actions, suits, claims, demands, costs, expenses, fees and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the City is or may become liable, incur or suffer by reason of any injury to person (including death) or loss or damage to property or economic loss arising directly or indirectly from any act, omission, negligence or default of the Grantor in connection with or in consequence of this Agreement, save and except to the extent caused by any act, omission, negligence or default of the City.
- 5. **No Obligation to Maintain** - No right herein granted to or reserved by the City requires the City to clean, repair or maintain the Roads and Sidewalks or the Right of Way Area, except as expressly provided herein.
- 6. **City's Rights** - The City:
  - (a) is entitled to peaceably hold and enjoy the rights, liberties and Statutory Right of Way hereby granted without hindrance, molestation or interruption by the Grantor or any person, firm or corporation claiming by, through, under or in trust for the Grantor; and
  - (b) on default by the Grantor of any of its obligations under this Agreement, may, but is not obliged to, rectify the default, provided that, except in the case of an emergency, the City must first give 20 days prior notice to the Grantor specifying the default and requiring it to be remedied. The Grantor shall reimburse the City for its reasonable, out of pocket expenses incurred in remedying such a default.
- 7. **No Waiver** - No waiver of default by either party is effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default of the other is to be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.
- 8. **No Effect on Powers** - This Agreement does not:
  - (a) affect or limit the discretion, rights, duties or powers of the City under the common law or any statute, bylaw, or other enactment;
  - (b) affect or limit the common law or any statute, bylaw or other enactment applying to the Land; or

- (c) relieve the Grantor from complying with the common law or any statute, bylaw or other enactment.
9. **Notice** - Any notice to be given pursuant to this Agreement must be in writing and may be delivered personally or sent by prepaid mail. The addresses of the parties for the purpose of notice are the addresses hereinbefore set out. If notice is delivered personally, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is mailed, it is to be deemed given 5 days after mailing by deposit at a Canada Post mailing point or office. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice must do so by personal delivery as provided in this section. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the address therein specified is to be deemed to be the address of such party for the giving of notice.
  10. **Severance** - If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion is to be severed and the decision that it is invalid does not affect the validity of the remainder of this Agreement.
  11. **Survey of Roads and Sidewalks** – Upon the establishment of a system of Roads and Sidewalks on the Lands, the Grantor may, at its sole option and expense, arrange to have the Roads and Sidewalks surveyed by an accredited British Columbia Land Surveyor. The City hereby agrees that it will provide a discharge of this Statutory Right of Way at the request of the Grantor provided that the Grantor shall provide a replacement statutory right of way, substantially on the same terms and conditions as contained in this Statutory Right of Way, with the Roads and Sidewalks being the right of way area and identified by survey. The Grantor shall be responsible for any and all costs associated with the discharge of this Statutory Right of Way and registration of a replacement statutory right of way.
  12. **Entire Agreement** - No amendment of this Agreement, is valid or binding unless in writing and executed by the parties.
  13. **Headings** - The headings in this Statutory Right of Way are inserted for reference and convenience only and must not be used to construe or interpret the provisions hereof.
  14. **Interpretation** - In this Agreement:
    - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
    - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
    - (c) reference to a particular numbered section or article is a reference to the correspondingly numbered or lettered article, or section of this Agreement;
    - (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;

- (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (f) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (g) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (h) time is of the essence;
- (i) all provisions are to be interpreted as always speaking;
- (j) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (k) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (l) where the word "including" is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word "including".

15. **Interest In Land and Enurement** - The Statutory Right of Way runs with the Land and each and every part into which the Land may be subdivided or consolidated by any means (including by deposit of strata plan or leasehold plan of any kind), but no part of the fee of the Land passes to or is vested in the City under or by this Agreement and the Grantor may fully use the Right of Way Area and Land subject only to the common law and the rights, obligations and restrictions expressly set out in this Agreement. This Statutory Right of Way enures to the benefit of and is binding on the parties notwithstanding any rule of law or equity to the contrary.

**Execution** - As evidence of their agreement to be bound by the above terms, the Grantor and Grantee have executed and delivered this Agreement by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

SCHEDULE "F"  
Offsite Infrastructure Improvements Plan



NOT FOR CONSTRUCTION

COOK ROAD/GORDON DRIVE INTERSECTION  
TO BE REFINED  
AT PROJECT FULL BUILD-OUT

NOTICE: IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THAT ALL LEGAL SURVEY DIMENSIONS SHOWN ON THE ENGINEER'S DRAWINGS AGREE WITH THOSE ON THE REGISTERED LEGAL SURVEY PLAN. SHOULD THERE BE ANY DISCREPANCIES, THEN IMMEDIATELY NOTIFY THE ENGINEER OF RECORD.



**LEGAL DESCRIPTION:** LOT 1, PLAN EPP41284, D.L. 134  
 ELEVATION: 314.54m  
 B.M. MONUMENT NO. 83 (OPPOSITE END OF LAKESHORE ROAD (OPPOSITE END OF ROYAL BEACH))  
 LOCATED EAST SIDE OF LAKESHORE ROAD

**LEGEND:**

- WATER
- NEW PAVEMENT
- ASPHALT REPLACEMENT
- MILL AND OVERLAY
- SAN. SEWER
- GAS
- U/G TELEPHONE
- U/G ELECTRICAL

**APLIN MARTIN**  
 ENGINEERING ARCHITECTURE PLANNING SURVEYING  
 1148 8th Street, Kelowna, B.C. Canada V1Y 2R4  
 Tel: (250) 444-1157, Email: info@aplinmartin.com

**BASE:** TDS, JRG  
**APPROVED:** JRG  
**DATE:** FEBRUARY 2022  
**SCALE:** HORIZ. 1:500  
**VERT.:** N/A

**REVISION:**

NO.	DATE	BY	DESCRIPTION
1	22/02/2021	JRG	ISSUED FOR MAIL SCHEDULES
2	21/07/2021	JRG	ISSUED FOR MAIL SCHEDULES
3	17/04/2021	JRG	NO. 17/04/2021

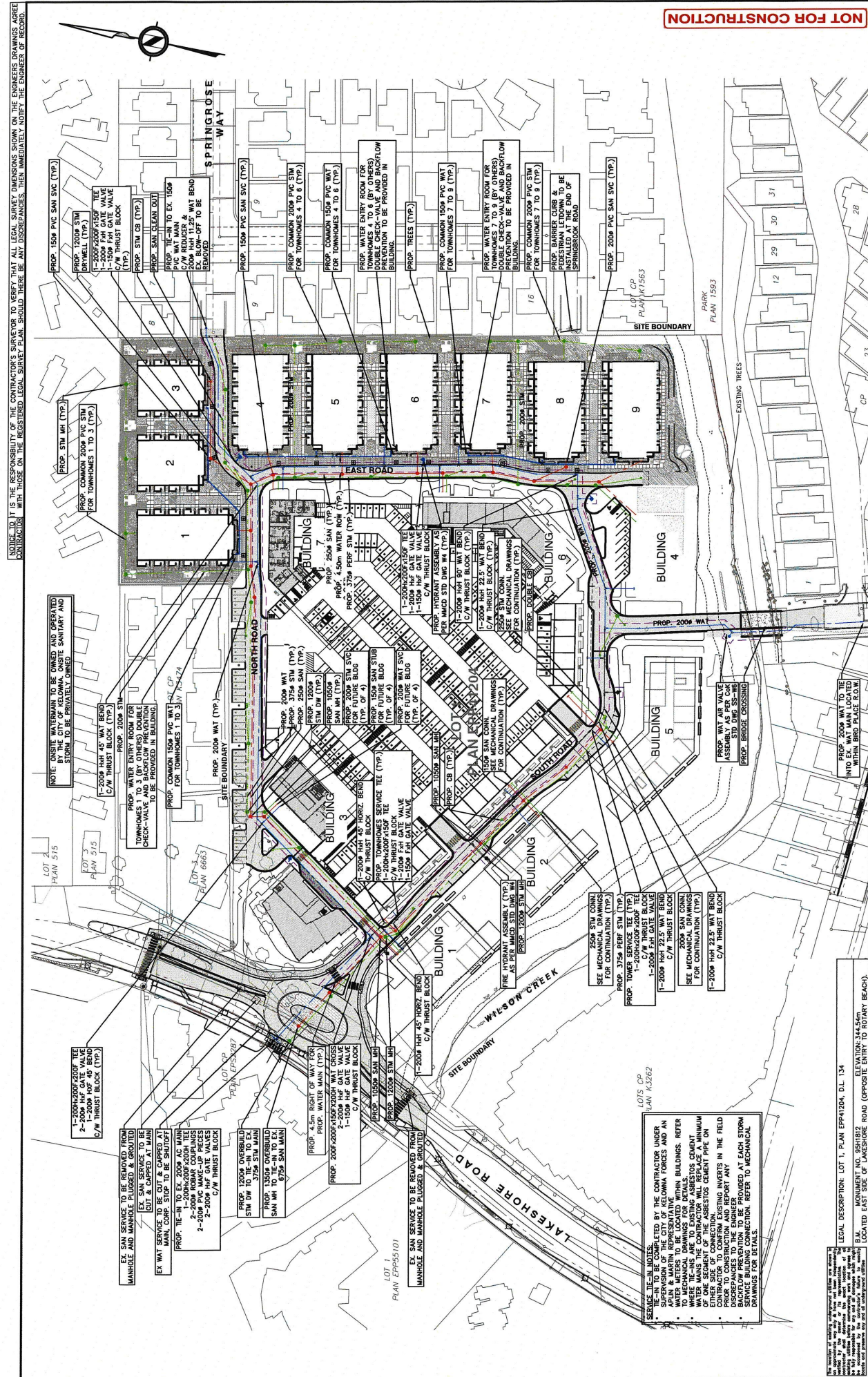
**THE CITY OF KELOWNA**  
 DESIGN AND CONSTRUCTION  
 WEST COAST DEVELOPMENT SITE  
**OFFSITE INFRASTRUCTURE IMPROVEMENT PLAN**

**PROJECT NO.:** 19-9088-C100  
**CITY DRAWING NO.:** 1

FOR THE RECORD OF THE CONTRACTOR TO VERIFY THAT ALL LEGAL SURVEY DIMENSIONS SHOWN ON THE ENGINEER'S DRAWINGS AGREE WITH THOSE ON THE REGISTERED LEGAL SURVEY PLAN. SHOULD THERE BE ANY DISCREPANCIES, THEN IMMEDIATELY NOTIFY THE ENGINEER OF RECORD.

SCHEDULE "G"  
Onsite Servicing Plan





NOTICE: IT IS THE RESPONSIBILITY OF THE CONTRACTOR'S SURVEYOR TO VERIFY THAT ALL LEGAL SURVEY DIMENSIONS SHOWN ON THE ENGINEERS DRAWINGS AGREE WITH THOSE ON THE REGISTERED LEGAL SURVEY PLAN. SHOULD THERE BE ANY DISCREPANCIES, THEN IMMEDIATELY NOTIFY THE ENGINEER OF RECORD.

NOTE: ON-SITE WATERMAIN TO BE OWNED AND OPERATED BY THE CITY OF KELOWNA. SANITARY AND STORM TO BE PRIVATELY OWNED.

EX. SAN SERVICE TO BE REMOVED FROM MANHOLE AND MANHOLE PLUGGED & GROUTED.  
 EX. SAN SERVICE TO BE USED & SCHEDULED FOR REMOVAL.  
 EX. SAN SERVICE TO BE SHUT-OFF AT MAIN, COMP. STOP TO BE SHUT-OFF.  
 PROP. TE-IN TO EX. 2008 AC MAIN.  
 1-2008H200P200H TEE  
 2-2008H200P200H TEE  
 1-2008 H/F GATE VALVE  
 2-2008 H/F GATE VALVES  
 C/W THRUST BLOCK

PROP. 1200R OVERBUILD  
 STIM DW TO EX. 375R STIM MAIN  
 PROP. 1350R OVERBUILD  
 SAN MH TO TE-IN TO EX.  
 375R SAN MAIN  
 PROP. 4.5M RIGHT OF WAY (R/W)  
 PROP. WATER MAIN (TYP.)  
 PROP. 2007-2007-150F200H WAT CROSS  
 1-2008H200P200H TEE  
 2-2008H200P200H TEE  
 1-2008 H/F GATE VALVE  
 2-2008 H/F GATE VALVES  
 C/W THRUST BLOCK

EX. SAN SERVICE TO BE REMOVED FROM MANHOLE AND MANHOLE PLUGGED & GROUTED.  
 EX. SAN SERVICE TO BE USED & SCHEDULED FOR REMOVAL.  
 EX. SAN SERVICE TO BE SHUT-OFF AT MAIN, COMP. STOP TO BE SHUT-OFF.  
 PROP. TE-IN TO EX. 2008 AC MAIN.  
 1-2008H200P200H TEE  
 2-2008H200P200H TEE  
 1-2008 H/F GATE VALVE  
 2-2008 H/F GATE VALVES  
 C/W THRUST BLOCK

**NOT FOR CONSTRUCTION**

DATE: 19-3088-C30  
 CITY DRAWING NO. 0

**THE CITY OF KELOWNA**  
 DESIGN AND CONSTRUCTION  
 WESTERN PROPERTY  
 DEVELOPMENT SITE

**ONSITE SERVICING PLAN**

BASE: [ ]  
 APPROVED: [ ]  
 DATE: JULY 2021  
 SCALE: 1:750  
 U.S. UNIT: N/A  
 SCALE: NOT APPLICABLE  
 U.S. UNIT: NOT APPLICABLE

REVISION

NO.	DATE	DESCRIPTION
1	17/JAN/2021	REVISED FOR M.A. SCHEDULES
2	21/OCT/2021	REVISED FOR M.A. SCHEDULES

**APLIN MARTIN**  
 ENGINEERING ARCHITECTURE PLANNING DRAWING

1555 Bilsa Street Kelowna, B.C. Canada V1Y 1Z6  
 Tel: (250) 444-0157, Email: kelowna@aplinmartin.com

LEGAL DESCRIPTION: LOT 1, PLAN EPP41204, D.L. 134  
 SECTION 8, TOWNSHIP 19S, RANGE 12E, DISTRICT 10, BC  
 LOCATED EAST SIDE OF SPRINGROSE ROAD (OPPOSITE LOT 1 TO LOT 9, BEACH).

**NAD 83**

VERTICAL BASE POINT: 3000.00 - 1000.0000

LEGEND:

- NEW PAVEMENT
- ASPHALT REPLACEMENT
- MILL AND OVERLAY
- U/G ELECTRICAL
- U/G TELEPHONE
- U/G GAS
- SEWER
- WATER
- SPRING CENTER

**SERVICE TIE-IN NOTES:**

- ALL TIE-IN NOTES TO BE CHECKED BY THE CONTRACTOR UNDER THE SUPERVISION OF THE CITY OF KELOWNA FORCES AND AN APPLIN & MARTIN REPRESENTATIVE.
- REFER TO MECHANICAL DRAWINGS FOR DETAILS.
- REFER TO ELECTRICAL DRAWINGS FOR DETAILS.
- WATER MAINS: THE CONTRACTOR SHALL VERIFY THE MINIMUM OF ONE SEGMENT OF THE EXISTING GEMINI PIPE ON CONTRACTOR TO CONFIRM EXISTING INVERTS IN THE FIELD PRIOR TO CONSTRUCTION AND REPORT ANY BACKFLOW PREVENTION TO BE PROVIDED AT EACH STORM SERVICE BUILDING CONNECTION. REFER TO MECHANICAL DRAWINGS FOR DETAILS.

SCHEDULE "H"  
Phasing Plan





SCHEDULE "I"  
Phased Parking Plan





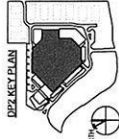




HDR  
 1000 Pennsylvania Avenue  
 Suite 200  
 Washington, DC 20004



**CD24 DEVELOPMENT  
 PERMIT PHASING**



0 10 20 30 40 50  
 METERS

**Project Manager:** Alibeky  
**Project Architect:** WSP  
**Site Planner:** Robert Clark  
**Structural Engineer:** WSP  
**Mechanical Engineer:** WSP  
**Electrical Engineer:** WSP  
**Plumbing Engineer:** WSP  
**Energy Consultant:** WSP  
**Cost Consultant:** WSP  
**Client:** Westcorp

MARK	DATE	DESCRIPTION
1	2021-04-29	ISSUED FOR DEVELOPMENT PERMIT 1
2	2021-07-16	ISSUED FOR MAINTENANCE
3	2021-07-16	ISSUED FOR MAINTENANCE
4	2021-07-16	ISSUED FOR MAINTENANCE
5	2021-08-24	ISSUED FOR MAINTENANCE

Project Number: 1024027  
 Original Issue: 1/12/22

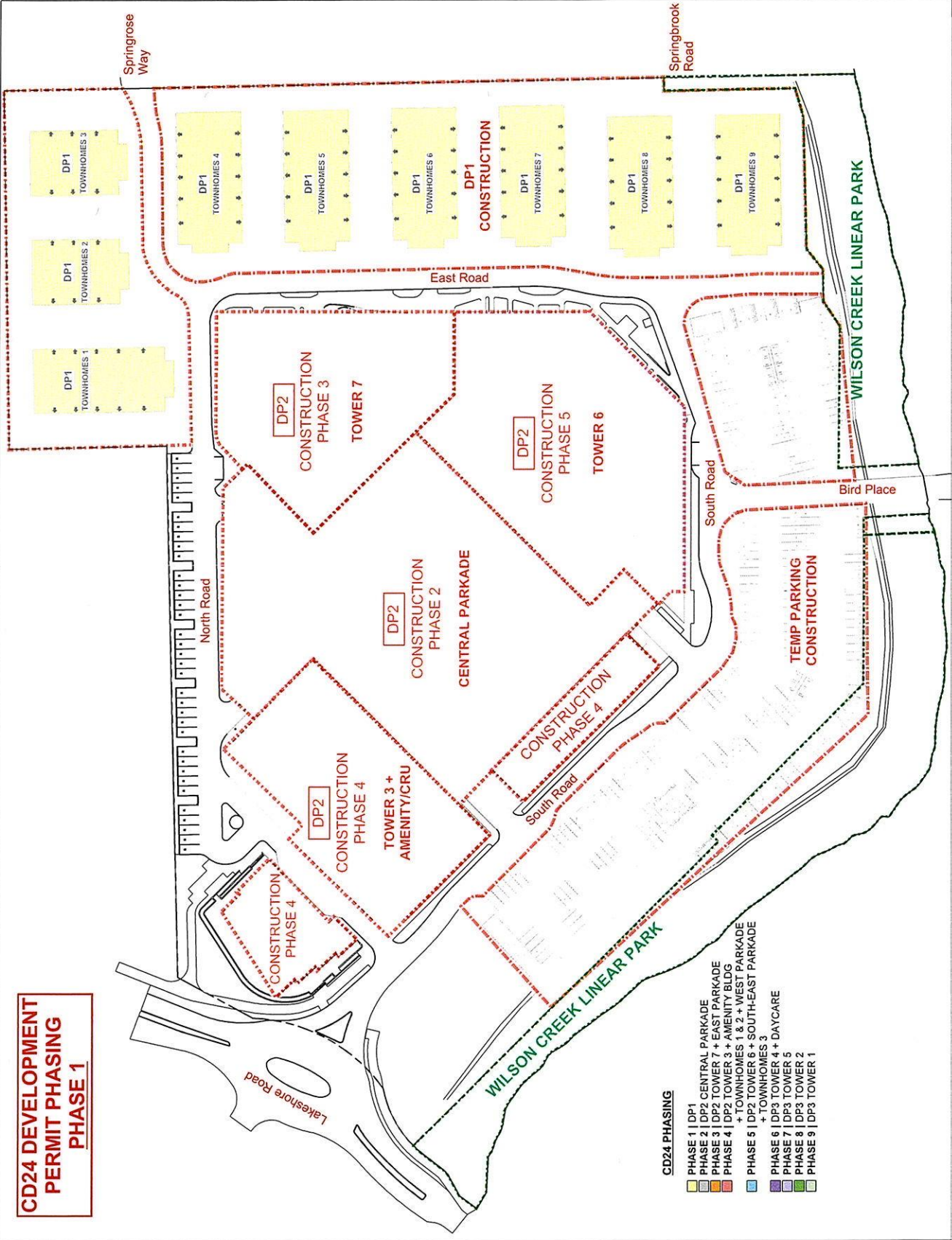
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 Date: 1/12/22

**PHASE 1  
 AT GRADE / LEVEL 1**

**A.101**

Project Status: Building Permit

**CD24 DEVELOPMENT  
 PERMIT PHASING  
 PHASE 1**



**CD24 PHASING**

- PHASE 1 | DP1
- PHASE 2 | DP2 CENTRAL PARKADE
- PHASE 3 | DP2 TOWER 7, EAST PARKADE
- PHASE 4 | DP2 TOWER 3, AMENITY BLDG + TOWNHOMES 1 & 2 + WEST PARKADE
- PHASE 5 | DP3 TOWER 6, SOUTH-EAST PARKADE
- PHASE 6 | DP3 TOWER 4 + DAYCARE
- PHASE 7 | DP3 TOWER 5
- PHASE 8 | DP3 TOWER 2
- PHASE 9 | DP3 TOWER 1





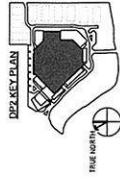




HDR Planning Studio  
210 Madison Ave  
Portland, OR 97205



CD24 DEVELOPMENT PERMIT PHASING



Project Manager: [Name]  
Project Architect: [Name]  
Civil Engineer: [Name]  
Structural Engineer: [Name]  
Mechanical Engineer: [Name]  
Electrical Engineer: [Name]  
Fire Protection Engineer: [Name]  
Energy & Sustainability: [Name]  
B.C. Compliance: [Name]  
Cost Consultant: [Name]

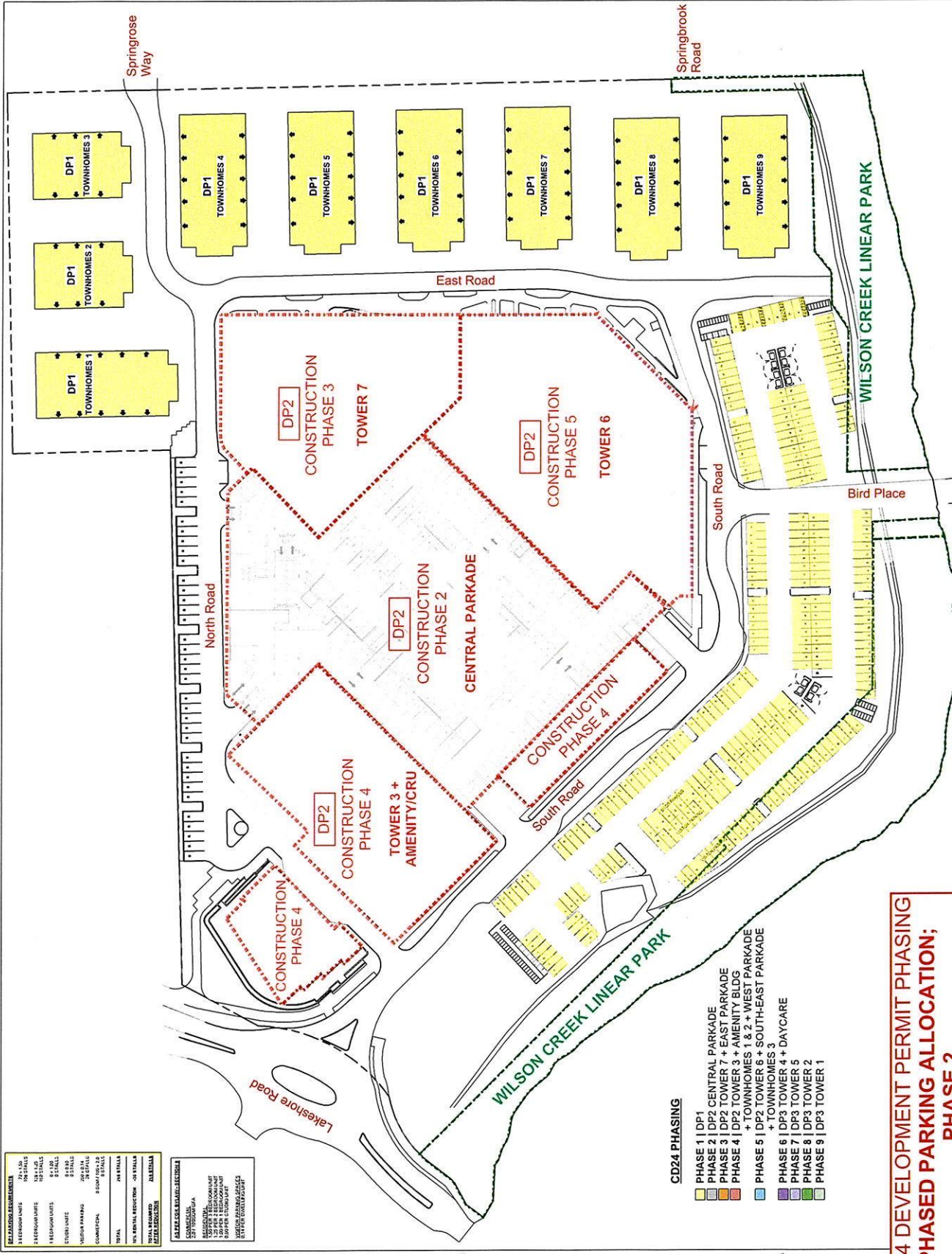
MARK	DATE	DESCRIPTION
1	2021-05-25	ISSUED FOR DEVELOPMENT PERMIT 2
2	2021-05-18	ISSUED FOR PARKING REV 1
3	2021-05-18	ISSUED FOR PARKING REV 2
4	2022-05-08	ISSUED FOR PARKING REV 3
5	2022-05-24	ISSUED FOR PARKING REV 4

Project Number: 12021017  
Original Issue: 120222

Sheet Name: PHASE 2 AT GRADE / LEVEL 1

Scale: 1/50  
Sheet Number: A.101

Project Name: [Name]  
Building Permit: [Number]



CD24 PHASING	PHASE 1	PHASE 2	PHASE 3	PHASE 4	PHASE 5	PHASE 6	PHASE 7
Color Key	Light Blue	Light Green	Light Orange	Light Purple	Light Yellow	Light Red	Light Cyan

CD24 PHASING	PHASE 1	PHASE 2	PHASE 3	PHASE 4	PHASE 5	PHASE 6	PHASE 7
Color Key	Light Blue	Light Green	Light Orange	Light Purple	Light Yellow	Light Red	Light Cyan

CD24 DEVELOPMENT PERMIT PHASING  
PHASED PARKING ALLOCATION;  
PHASE 2



HDR Pacifica Studio  
210 Mariposa Ave  
Pacifica, BC V8A 2V6



CD24 DEVELOPMENT  
PERMIT PHASING



Project Manager: Atuljyoti  
 Project Architect: Robert Clark  
 Mechanical Engineer: RGP  
 Electrical Engineer: Atuljyoti, Geraldine  
 Civil Engineer: Andrew Symon  
 Planning Engineer: RGP  
 Environmental Engineer: RGP  
 Energy Consultant: RGP  
 Cost Consultant: RGP

MARK	DATE	DESCRIPTION
1	2014-05-23	ISSUED FOR DEVELOPMENT PERMIT 1
2	2014-05-23	ISSUED FOR MAJOR REV 1
3	2014-05-23	ISSUED FOR MAJOR REV 2
4	2014-05-23	ISSUED FOR MAJOR REV 3
5	2014-05-24	ISSUED FOR MAJOR REV 4

A - Sheet Name

Scale: 1:500  
Sheet Number:

**A-101**

Project Status:  
SCHEMATIC DESIGN

# CD24 DEVELOPMENT PERMIT PHASING

# CONSTRUCTION PHASE 3 DP2 TOWER 7

# PARKING ALLOCATION DP1

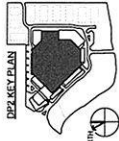




HDR Pedestrian Studio  
210 Hanger Ave  
Piscataway, NJ 08854



CD24 DEVELOPMENT PERMIT PHASING



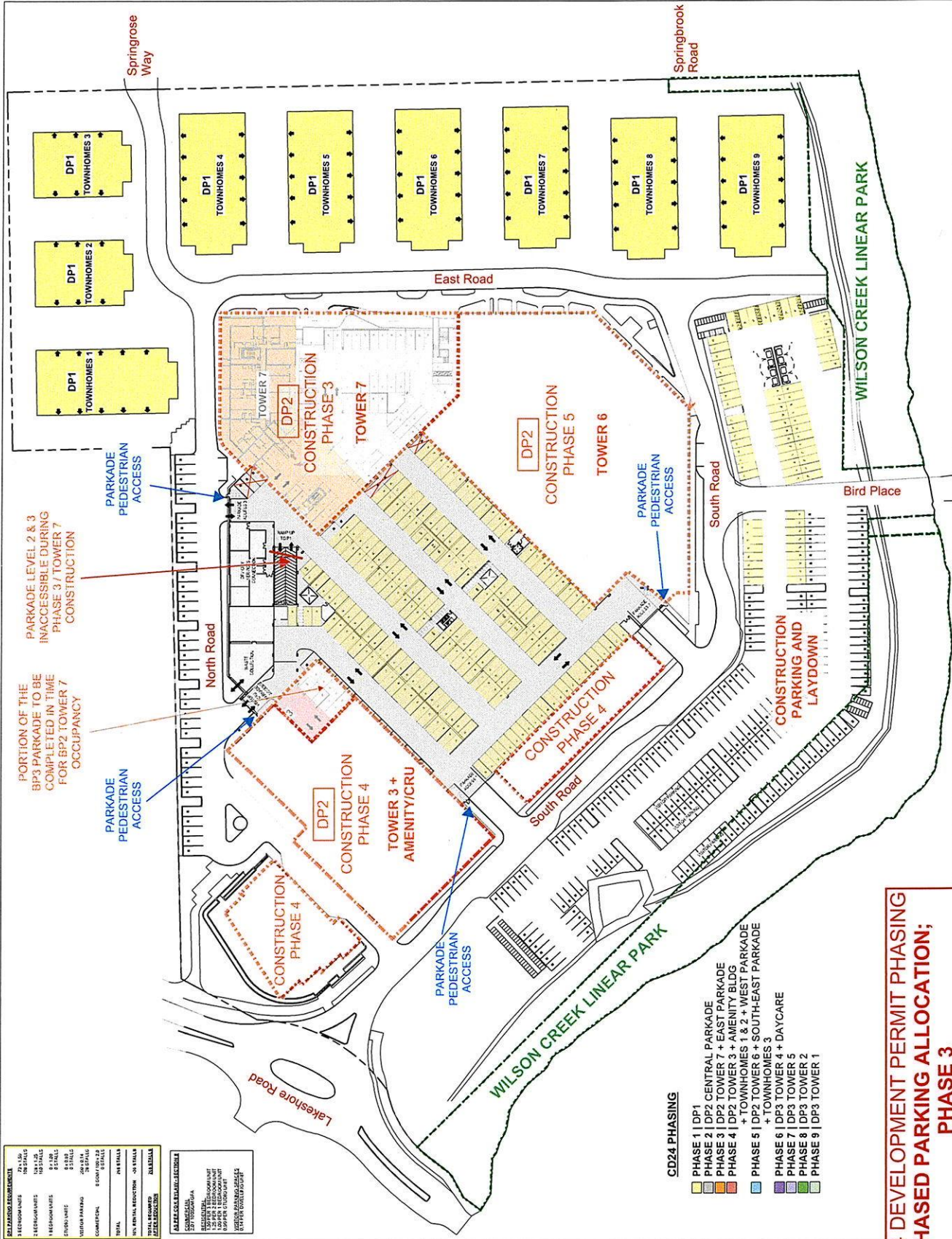
DATE: 10/15/2024

MARK	DATE	DESCRIPTION
1	2024-10-15	ISSUED FOR DEVELOPMENT PERMIT 2
2	2024-05-18	ISSUED FOR PARKING REV1
3	2024-05-18	ISSUED FOR PHASING REV1
4	2024-05-18	ISSUED FOR PHASING REV2
5	2024-05-18	ISSUED FOR PHASING REV3

Project Number: 1025017  
Original Date: 1/10/22

Sheet Number: PHASE 3  
AT GRADE / LEVEL 1

Scale: 1" = 50'  
Sheet Number: A.101a  
Project Name: Building Permit



CD24 PHASING	DESCRIPTION
PHASE 1	DP1
PHASE 2	DP2 CENTRAL PARKADE
PHASE 3	DP2 TOWER 7 + EAST PARKADE
PHASE 4	DP2 TOWER 3 + AMENITY BLDG
PHASE 5	DP2 TOWER 1 & 2 + WEST PARKADE
PHASE 6	DP2 TOWER 6 + SOUTH-EAST PARKADE
PHASE 7	DP2 TOWER 5 + DAYCARE
PHASE 8	DP3 TOWER 5
PHASE 9	DP3 TOWER 2
PHASE 10	DP3 TOWER 1

CD24 PHASING	DESCRIPTION
PHASE 1	DP1
PHASE 2	DP2 CENTRAL PARKADE
PHASE 3	DP2 TOWER 7 + EAST PARKADE
PHASE 4	DP2 TOWER 3 + AMENITY BLDG
PHASE 5	DP2 TOWER 1 & 2 + WEST PARKADE
PHASE 6	DP2 TOWER 6 + SOUTH-EAST PARKADE
PHASE 7	DP2 TOWER 5 + DAYCARE
PHASE 8	DP3 TOWER 5
PHASE 9	DP3 TOWER 2
PHASE 10	DP3 TOWER 1

CD24 DEVELOPMENT PERMIT PHASING  
PHASED PARKING ALLOCATION;  
PHASE 3

PORION OF THE BP3 PARKADE TO BE INACCESSIBLE DURING PHASE 3 / TOWER 7 CONSTRUCTION

PARKADE PEDESTRIAN ACCESS

PARKADE PEDESTRIAN ACCESS

PARKADE PEDESTRIAN ACCESS

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PARKADE PEDESTRIAN ACCESS

CONSTRUCTION PHASE 3

CONSTRUCTION PHASE 4

CONSTRUCTION PHASE 5

CONSTRUCTION PHASE 6

CONSTRUCTION PHASE 7

CONSTRUCTION PHASE 8

CONSTRUCTION PHASE 9

CONSTRUCTION PHASE 10

CONSTRUCTION PHASE 11

CONSTRUCTION PHASE 12

CONSTRUCTION PHASE 13

CONSTRUCTION PHASE 14

CONSTRUCTION PHASE 15

CONSTRUCTION PHASE 16

CONSTRUCTION PHASE 17

CONSTRUCTION PHASE 18

CONSTRUCTION PHASE 19

CONSTRUCTION PHASE 20

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CONSTRUCTION PHASE 85

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CONSTRUCTION PHASE 87

CONSTRUCTION PHASE 88

CONSTRUCTION PHASE 89

CONSTRUCTION PHASE 90

CONSTRUCTION PHASE 91

CONSTRUCTION PHASE 92



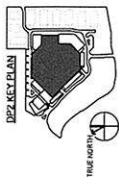




HDR  
210 Hastings Ave  
Penticton, BC V2A 2Y6



**CD24 DEVELOPMENT PERMIT PHASING**



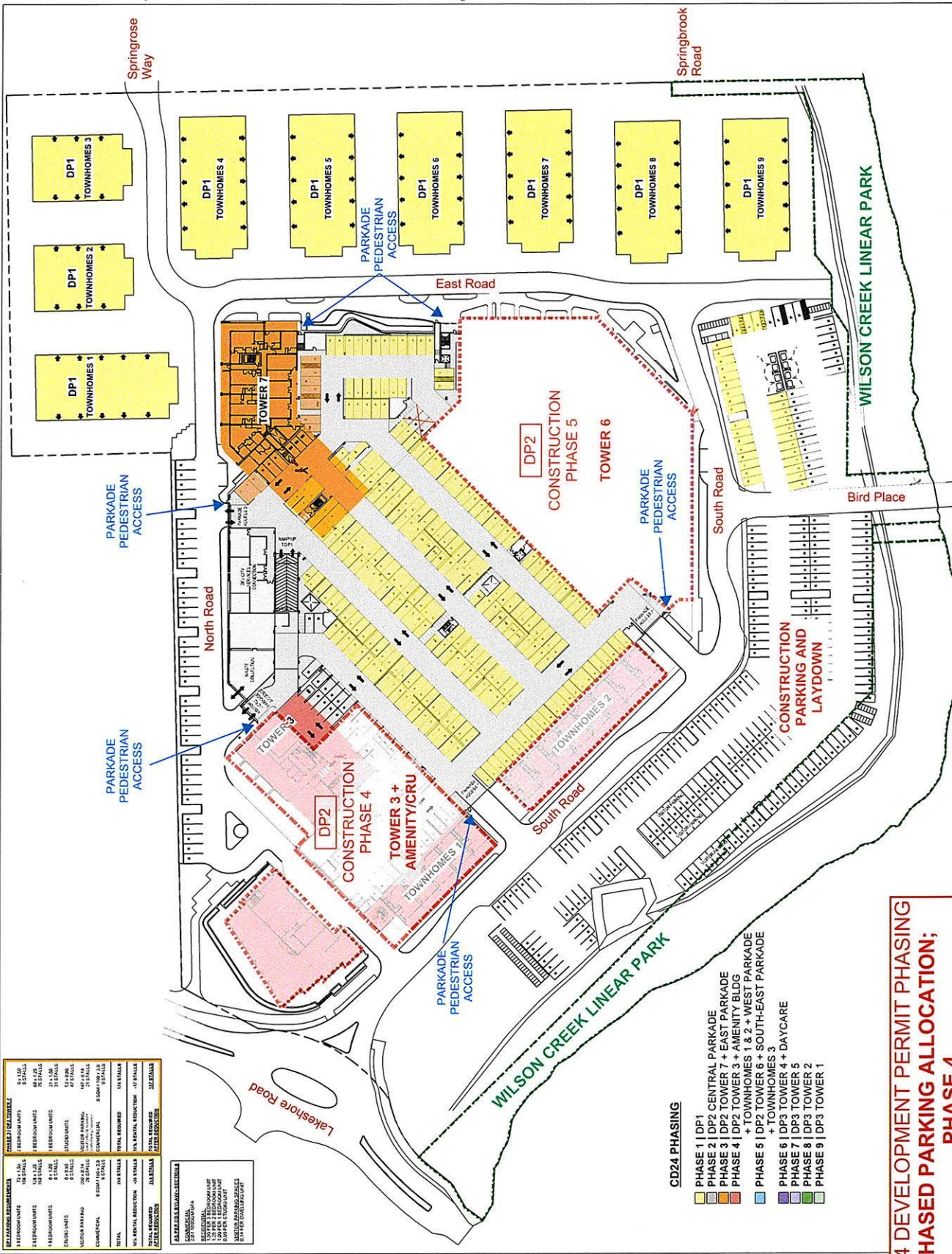
MARK	DATE	DESCRIPTION
1	2021-04-28	ISSUED FOR DEVELOPMENT PERMIT 1
2	2021-05-18	ISSUED FOR MA BRY1
3	2021-05-18	ISSUED FOR MA BRY2
4	2021-05-28	ISSUED FOR MA BRY3
5	2021-06-24	ISSUED FOR MA BRY3B

Project Number: 161037  
Original Date: 03/2022

Scale: 1" = 50'  
Date: 03/2022

**A.101a**

Project Status: Building Permit



USE	AREA (SQ FT)	STALLS	REMARKS
RESIDENTIAL	274,150	8,412	
COMMERCIAL	108,216	3,246	
STUDIO	8,412	252	
OFFICE	8,412	252	
RETAIL	8,412	252	
INDUSTRIAL	8,412	252	
TOTAL	307,408	9,414	

- CD24 PHASING**
- Phase 1 | DP1
  - Phase 2 | DP2 CENTRAL PARKADE
  - Phase 3 | DP2 TOWER 7 + EAST PARKADE
  - Phase 4 | DP2 TOWER 3 + AMENITY BLDG + TOWNHOMES 1 & 2 + WEST PARKADE + TOWNHOMES 3 + TOWNHOMES 4 + DAYCARE
  - Phase 5 | DP3 TOWER 5
  - Phase 6 | DP3 TOWER 2
  - Phase 7 | DP3 TOWER 1

**CD24 DEVELOPMENT PERMIT PHASING  
PHASED PARKING ALLOCATION;  
PHASE 4**





HDR Pacifica Studio  
210 Hastings Ave  
Penticton, BC V2A 7W6



**CD24 DEVELOPMENT PERMIT PHASING**



0 10 20 30 40 50  
METERS

MARK	DATE	DESCRIPTION
1	2014-03-25	ISSUED FOR DEVELOPMENT PERMIT 1
2	2014-03-25	ISSUED FOR MAINTENANCE
3	2014-03-25	ISSUED FOR MAINTENANCE
4	2014-03-25	ISSUED FOR MAINTENANCE
5	2014-03-25	ISSUED FOR MAINTENANCE

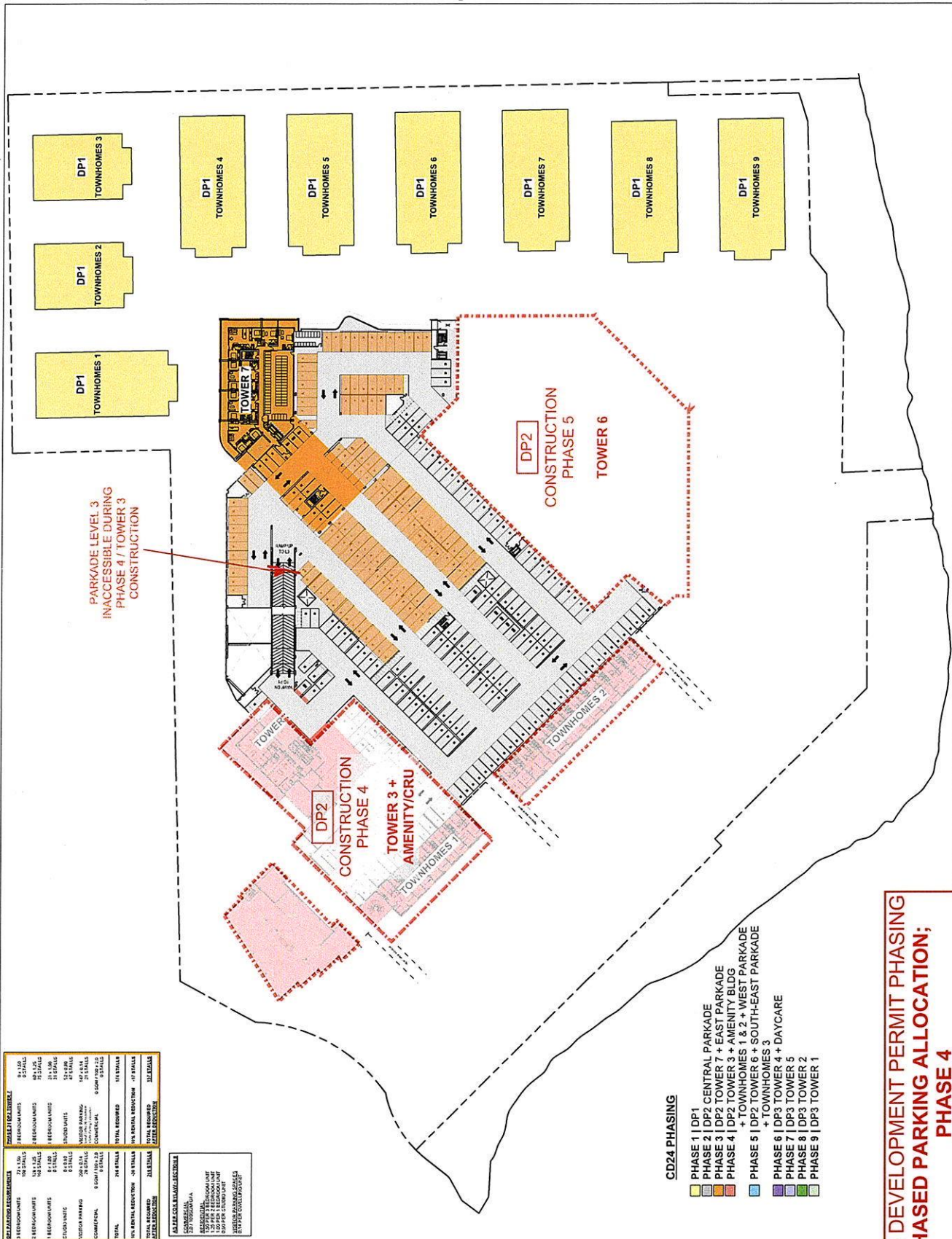
Project Number: 1524212  
Original Issue: 02/04/11

**PHASE 4 LEVEL 2**

Scale: 1:500  
Sheet Number: A.102

**A.102**

Project Status: Building Permit



USE	AREA (SQ M)	NO. STALLS	NO. SPACES
RESIDENTIAL	72,416	108	8,142
COMMERCIAL	10,216	108	8,142
INDUSTRIAL	8,142	108	8,142
OFFICE	8,142	108	8,142
RETAIL	8,142	108	8,142
RECREATION	8,142	108	8,142
OTHER	8,142	108	8,142
<b>TOTAL</b>	<b>115,216</b>	<b>630</b>	<b>48,630</b>

**PHASE 4 CONSTRUCTION PHASING**

PHASE 1 | DP1  
PHASE 2 | DP2  
PHASE 3 | DP3  
PHASE 4 | DP4  
PHASE 5 | DP5  
PHASE 6 | DP6

- CD24 PHASING**
- PHASE 1 | DP1
  - PHASE 2 | DP2 CENTRAL PARKADE
  - PHASE 3 | DP3 TOWER 7 + EAST PARKADE
  - PHASE 4 | DP4 TOWER 3 + AMENITY BLDG + TOWNHOMES 1 & 2 + WEST PARKADE + TOWNHOMES 3
  - PHASE 5 | DP5 TOWER 6 + SOUTH-EAST PARKADE + TOWNHOMES 3
  - PHASE 6 | DP6 TOWER 4 + DAYCARE
  - PHASE 7 | DP7 TOWER 5
  - PHASE 8 | DP8 TOWER 2
  - PHASE 9 | DP9 TOWER 1

**CD24 DEVELOPMENT PERMIT PHASING  
PHASED PARKING ALLOCATION;  
PHASE 4**

PARKADE LEVEL 3  
INACCESSIBLE DURING  
PHASE 4 / TOWER 3  
CONSTRUCTION

DP2  
CONSTRUCTION  
PHASE 5  
TOWER 6

DP2  
CONSTRUCTION  
PHASE 4  
TOWER 3 +  
AMENITY/CRU  
TOWNHOMES

DP1  
TOWNHOMES 1

DP1  
TOWNHOMES 2

DP1  
TOWNHOMES 3

DP1  
TOWNHOMES 4

DP1  
TOWNHOMES 5

DP1  
TOWNHOMES 6

DP1  
TOWNHOMES 7

DP1  
TOWNHOMES 8

DP1  
TOWNHOMES 9

TOWER 7

TOWER 6

TOWER 3

TOWNHOMES 9

TOWNHOMES

TOWNHOMES 8

TOWNHOMES 7

TOWNHOMES 6

TOWNHOMES 5

TOWNHOMES 4

TOWNHOMES 3

TOWNHOMES 2

TOWNHOMES 1



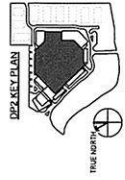




400 Rockville Station  
200 Montgomery Avenue  
Farmingdale, NY 11735



**CD24 DEVELOPMENT PERMIT PHASING**



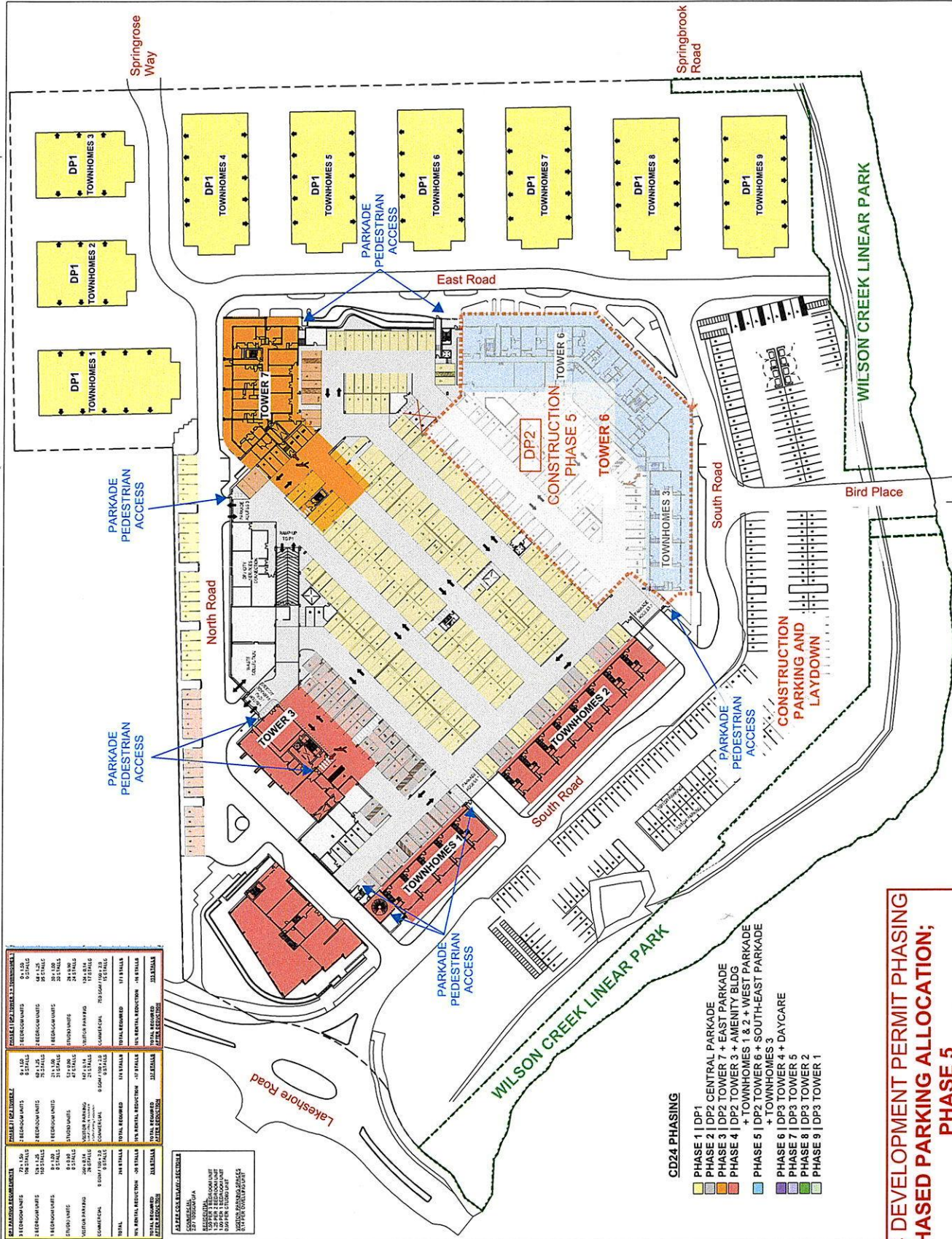
Project Manager: [Name]  
Project Architect: [Name]  
Landscape Architect: [Name]  
Structural Engineer: [Name]  
Mechanical Engineer: [Name]  
Electrical Engineer: [Name]  
Civil Engineer: [Name]  
Geotechnical Engineer: [Name]  
Construction Manager: [Name]  
City Consultant: [Name]

DATE: [Date]  
DESCRIPTION: [Description]  
1. PRELIMINARY PERMIT  
2. PRELIMINARY PERMIT  
3. PRELIMINARY PERMIT  
4. PRELIMINARY PERMIT  
5. PRELIMINARY PERMIT

Project Number: [Number]  
Original Date: [Date]

Scale: 1" = 50'  
Sheet Number: A.101a  
Project Name: [Name]

**PHASE 5 AT GRADE / LEVEL 1**



PHASE 1	PHASE 2	PHASE 3	PHASE 4	PHASE 5
24 TOWNHOMES	24 TOWNHOMES	24 TOWNHOMES	24 TOWNHOMES	24 TOWNHOMES
18 TOWNHOMES	18 TOWNHOMES	18 TOWNHOMES	18 TOWNHOMES	18 TOWNHOMES
12 TOWNHOMES	12 TOWNHOMES	12 TOWNHOMES	12 TOWNHOMES	12 TOWNHOMES
6 TOWNHOMES	6 TOWNHOMES	6 TOWNHOMES	6 TOWNHOMES	6 TOWNHOMES
3 TOWNHOMES	3 TOWNHOMES	3 TOWNHOMES	3 TOWNHOMES	3 TOWNHOMES
1 TOWNHOME	1 TOWNHOME	1 TOWNHOME	1 TOWNHOME	1 TOWNHOME
100% TOTAL	100% TOTAL	100% TOTAL	100% TOTAL	100% TOTAL

- CD24 PHASING**
- PHASE 1 | DP1
  - PHASE 2 | DP2 CENTRAL PARKADE
  - PHASE 3 | DP2 TOWER 7 + EAST PARKADE
  - PHASE 4 | DP2 TOWER 3 + AMENITY BLDG + TOWNHOMES 1 & 2 + WEST PARKADE
  - PHASE 5 | DP2 TOWER 6 + SOUTH-EAST PARKADE + TOWNHOMES 3
  - PHASE 6 | DP3 TOWER 4 + DAYCARE
  - PHASE 7 | DP3 TOWER 5
  - PHASE 8 | DP3 TOWER 2
  - PHASE 9 | DP3 TOWER 1

**CD24 DEVELOPMENT PERMIT PHASING PHASED PARKING ALLOCATION; PHASE 5**

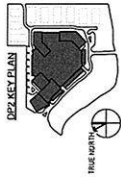




HDR Planning Studio  
210 Hastings Ave  
Penticton, BC V2A 2V6



CD24 DEVELOPMENT  
PERMIT PHASING



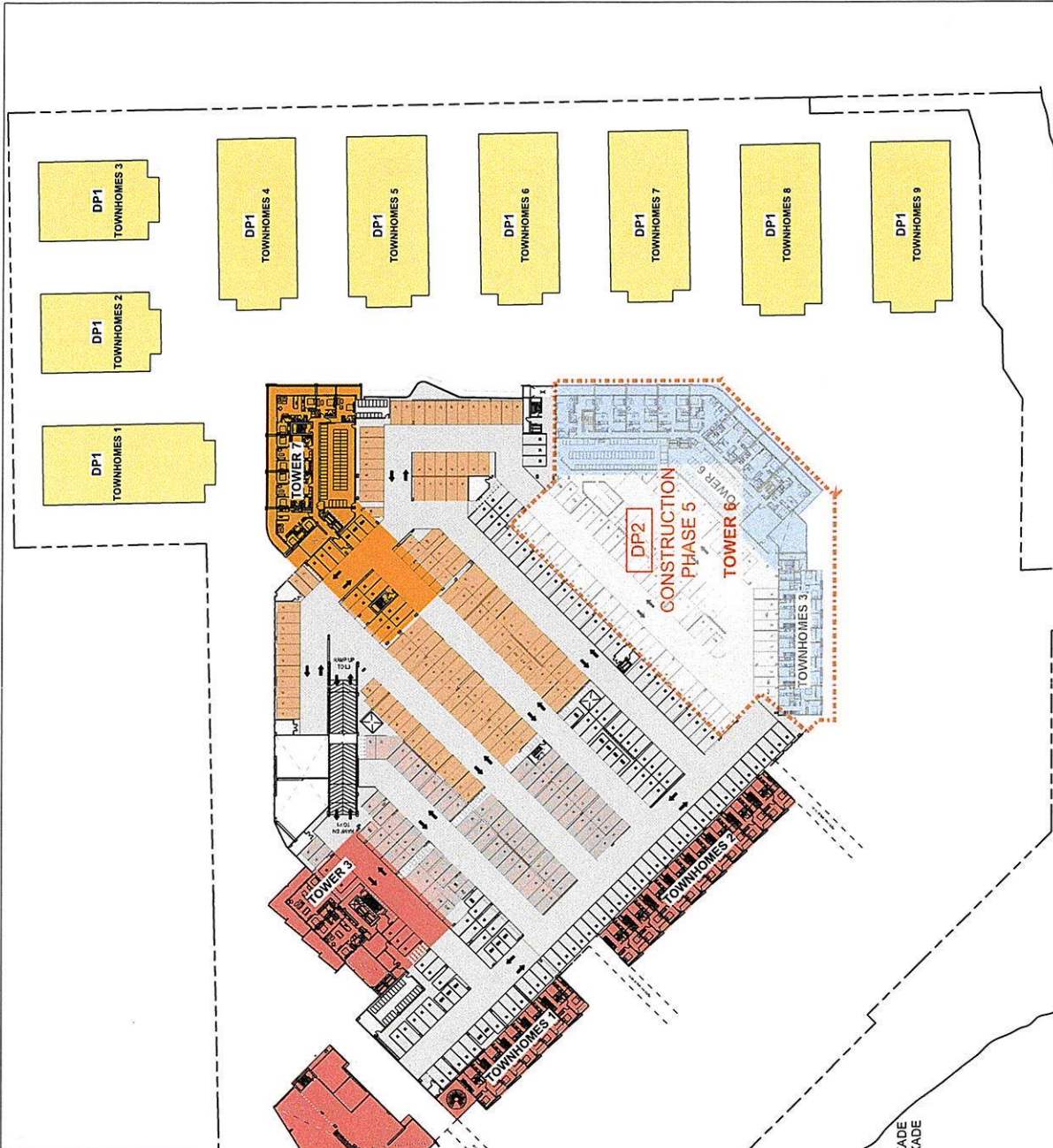
Project Manager: [Name]  
Project Architect: [Name]  
Civil Engineer: [Name]  
Structural Engineer: [Name]  
Mechanical Engineer: [Name]  
Electrical Engineer: [Name]  
Fire Protection Engineer: [Name]  
Energy Consultant: [Name]  
Civil Consultant: [Name]

MARK	DATE	DESCRIPTION
1	2014-03-20	ISSUED FOR DEVELOPMENT PERMIT 2
2	2014-03-20	ISSUED FOR AMEND 1
3	2014-03-20	ISSUED FOR AMEND 2
4	2014-03-20	ISSUED FOR AMEND 3
5	2014-03-20	ISSUED FOR AMEND 4

Project Number: 1524377  
Original Name: 1524377

Scale: 1:500  
Sheet Number: A.102  
Project Name: Building Permit

CD24 DEVELOPMENT PERMIT PHASING  
PHASE 5  
LEVEL 2



PHASE	RESIDENTIAL UNITS	COMMERCIAL	TOTAL
PHASE 1	724 UNITS	0	724 UNITS
PHASE 2	108 UNITS	0	108 UNITS
PHASE 3	812 UNITS	0	812 UNITS
PHASE 4	812 UNITS	0	812 UNITS
PHASE 5	812 UNITS	0	812 UNITS
PHASE 6	812 UNITS	0	812 UNITS
PHASE 7	812 UNITS	0	812 UNITS
PHASE 8	812 UNITS	0	812 UNITS
PHASE 9	812 UNITS	0	812 UNITS
TOTAL	5588 UNITS	0	5588 UNITS

PHASE	RESIDENTIAL UNITS	COMMERCIAL	TOTAL
PHASE 1	724 UNITS	0	724 UNITS
PHASE 2	108 UNITS	0	108 UNITS
PHASE 3	812 UNITS	0	812 UNITS
PHASE 4	812 UNITS	0	812 UNITS
PHASE 5	812 UNITS	0	812 UNITS
PHASE 6	812 UNITS	0	812 UNITS
PHASE 7	812 UNITS	0	812 UNITS
PHASE 8	812 UNITS	0	812 UNITS
PHASE 9	812 UNITS	0	812 UNITS
TOTAL	5588 UNITS	0	5588 UNITS

- CD24 PHASING**
- PHASE 1 | DP1
  - PHASE 2 | DP2 CENTRAL PARKADE
  - PHASE 3 | DP2 TOWER 7 + EAST PARKADE
  - PHASE 4 | DP2 TOWER 3 + AMENITY BLDG + TOWNHOMES 1 & 2 + WEST PARKADE
  - PHASE 5 | DP2 TOWER 6 + SOUTH-EAST PARKADE + TOWNHOMES 3
  - PHASE 6 | DP3 TOWER 4 + DAYCARE
  - PHASE 7 | DP3 TOWER 5
  - PHASE 8 | DP3 TOWER 2
  - PHASE 9 | DP3 TOWER 1

CD24 DEVELOPMENT PERMIT PHASING  
PHASED PARKING ALLOCATION;  
PHASE 5



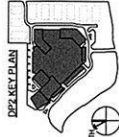




HDR  
210 Hastings Ave  
Penticton, BC V2A 7W6



**CD24 DEVELOPMENT PERMIT PHASING**



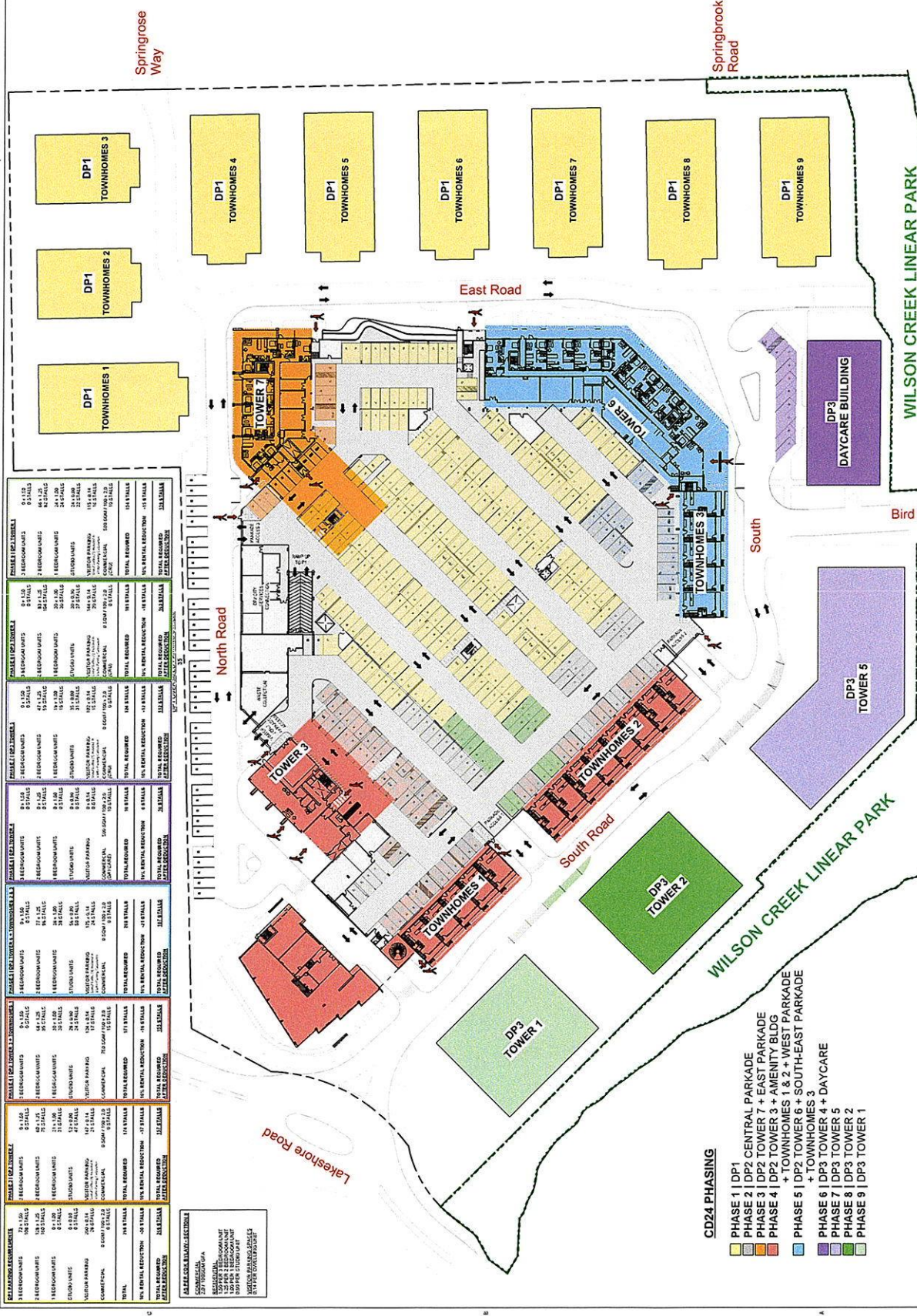
DATE: 10/24/2017  
PROJECT NUMBER: 102457  
PROJECT NAME: CD24

**PROJECT MANAGER:** Al Basky  
**PROJECT ARCHITECT:** Robert Green  
**LANDSCAPE ARCHITECT:** WSP  
**STRUCTURAL ENGINEER:** Golder Associates  
**Mechanical/Electrical/HVAC ENGINEER:** Golder Associates  
**CIVIL ENGINEER:** Golder Associates  
**PLANNING ENGINEER:** Golder Associates  
**ENERGY CONSULTANT:** Golder Associates  
**CITY CONSULTANT:** Golder Associates

**DESCRIPTION:**  
1. 2014-04-24 ISSUED FOR DEVELOPMENT PERMIT 2  
2. 2014-07-18 ISSUED FOR MAJORITY  
3. 2014-08-29 ISSUED FOR MAJORITY  
4. 2014-08-29 ISSUED FOR MAJORITY  
5. 2014-08-29 ISSUED FOR MAJORITY

**Scale:**  
1:500  
North Arrow

**A.101**  
Project Name: Building Permit



PHASE	RESIDENTIAL UNITS	STUDIOS/APARTS	TOTAL PARKING	COMMERCIAL	TOTAL REQUIRED	NET AVAILABLE	NET SURPLUS	NET DEFICIT
PHASE 1 (RED)	100	0	100	0	100	100	0	0
PHASE 2 (ORANGE)	100	0	100	0	100	100	0	0
PHASE 3 (YELLOW)	100	0	100	0	100	100	0	0
PHASE 4 (GREEN)	100	0	100	0	100	100	0	0
PHASE 5 (BLUE)	100	0	100	0	100	100	0	0
PHASE 6 (PURPLE)	100	0	100	0	100	100	0	0
PHASE 7 (LIGHT GREEN)	100	0	100	0	100	100	0	0
PHASE 8 (LIGHT BLUE)	100	0	100	0	100	100	0	0
PHASE 9 (LIGHT PURPLE)	100	0	100	0	100	100	0	0

- CD24 PHASING**
- PHASE 1 | DP1
  - PHASE 2 | DP2 CENTRAL PARKADE
  - PHASE 3 | DP2 TOWER 7 + EAST PARKADE
  - PHASE 4 | DP2 TOWER 3 + AMENITY BLDG + TOWNHOMES 1 & 2 + WEST PARKADE
  - PHASE 5 | DP2 TOWER 6 + SOUTH-EAST PARKADE + TOWNHOMES 3
  - PHASE 6 | DP3 TOWER 4 + DAYCARE
  - PHASE 7 | DP3 TOWER 5
  - PHASE 8 | DP3 TOWER 2
  - PHASE 9 | DP3 TOWER 1

**CD24 DEVELOPMENT PERMIT PHASING  
PHASED PARKING ALLOCATION;  
POST DP2 + PHASE 6-7-8-9**









**SCHEDULE "J"**

**Access Easement**



1. Application

**PUSHOR MITCHELL LLP, Lawyers**  
**301 - 1665 Ellis Street**  
**Kelowna BC V1Y 2B3**  
**250-762-2108**

BCC/50900.2 (Reciprocal Easement)

2. Description of Land

PID/Plan Number	Legal Description
<b>EPP112300</b>	<b>LOT 1 DISTRICT LOT 134 ODYD PLAN EPP112300</b>
<b>EPP112300</b>	<b>LOT 2 DISTRICT LOT 134 ODYD PLAN EPP112300</b>
<b>EPP112300</b>	<b>LOT 3 DISTRICT LOT 134 ODYD PLAN EPP112300</b>
<b>EPP112300</b>	<b>LOT 1 DISTRICT LOT 134 ODYD PLAN EPP41204 EXCEPT PLAN EPP112300</b>

3. Nature of Interest

Type	Number	Additional Information
<b>EASEMENT</b>		<b>Over Part Lot 1, Plan EPP41204, except Plan EPP112300 shown on Plan EPP112301 as Part A Paragraphs 1 - 2, 3, 5, 7 - 13 and 15 - 21 Dominant: See Schedule - Paragraph A</b>
<b>EASEMENT</b>		<b>Over Part Lot 1, Plan EPP41204, except Plan EPP112300 shown on Plan EPP112301 as Part B Paragraphs 1 - 2, 4, 6, 7 - 13 and 15 - 21 Dominant: See Schedule - Paragraph B</b>
<b>EASEMENT</b>		<b>Over Part Lot 3, Plan EPP112300 shown on Plan EPP112301 as Part C Paragraphs 1 - 2, 4, 6, 7 - 13 and 15 - 21 Dominant: See Schedule - Paragraph C</b>
<b>EASEMENT</b>		<b>Over Part Lot 2, Plan EPP112300 shown on Plan EPP112301 as Part D Paragraphs 1 - 2, 4, 6, 7 - 13 and 15 - 21 Dominant: See Schedule - Paragraph D</b>
<b>EASEMENT</b>		<b>Over Part Lot 1, Plan EPP112300 shown on Plan EPP112301 as Part E Paragraphs 1 - 2, 4, 6, 7 - 13 and 15 - 21 Dominant: See Schedule - Paragraph E</b>
<b>COVENANT</b>		<b>Paragraph 14</b>

4. Terms

Part 2 of this instrument consists of:

**(b) Express Charge Terms Annexed as Part 2**

5. Transferor(s)

**WESTCORP ON THE LAKE INC., NO.A75763**



6. Transferee(s)

<b>WESTCORP ON THE LAKE INC.</b> 200, 8215 - 112 STREET NW EDMONTON AB T6G 2C8	A75763
AS TO EASEMENTS	

<b>CITY OF KELOWNA</b> 1435 WATER STREET KELOWNA BC V1Y 1J4	
AS TO COVENANT	

7. Additional or Modified Terms

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.

Witnessing Officer Signature


Execution Date

Transferor Signature(s)



YYYY-MM-DD <b>2022/02/02</b>
---------------------------------

**WESTCORP ON THE LAKE INC.**  
 TRANSFEROR AND TRANSFEREE  
 By their Authorized Signatory

  
 \_\_\_\_\_  
 PHILIP MILROY

**ERIC C.H. LEDDING**  
 BARRISTER & SOLICITOR  
 #301 - 1665 Ellis Street  
 Kelowna, BC V1Y 2B3  
 Phone: (250) 762-2108

**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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

\_\_\_\_\_

YYYY-MM-DD
------------

**CITY OF KELOWNA**  
 Transferee  
 By their Authorized Signatory

\_\_\_\_\_

**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.





6. Transferee(s)

**WESTCORP ON THE LAKE INC.**  
 200, 8215 - 112 STREET NW  
 EDMONTON AB T6G 2C8

A75763

AS TO EASEMENTS

**CITY OF KELOWNA**  
 1435 WATER STREET  
 KELOWNA BC V1Y 1J4

AS TO COVENANT

7. Additional or Modified Terms

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

YYYY-MM-DD  
 2022/02/02

**WESTCORP ON THE LAKE INC.**  
 TRANSFEROR AND TRANSFEREE  
 By their Authorized Signatory

PHILIP MILROY

**ERIC C.H. LEDDING**  
 BARRISTER & SOLICITOR  
 #301 - 1665 Ellis Street  
 Kelowna, BC V1Y 2B3  
 Phone: (250) 762-2108

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

YYYY-MM-DD  
 2022-02-11

**CITY OF KELOWNA**  
 Transferee  
 By their Authorized Signatory

Loyal Woodridge, DEPUTY MAYOR

Stephen Fleming, City Clerk

FIONA DAWN HANDS  
 A COMMISSIONER FOR TAKING  
 AFFIDAVITS FOR BRITISH COLUMBIA  
 1435 WATER STREET, KELOWNA, BC V1Y 1J4

Order No. 2019-1289

Officer Certification  
 Expiry Date: 2022-08-31

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.

APPROVING OFFICER  
 CITY OF KELOWNA  
 Alex Kordon

Feb 8/22  
 DATE



**Electronic Signature**

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

## TERMS OF INSTRUMENT – PART 2

### WHEREAS:

- A. The Grantor is the registered owner of those lands and premises in Kelowna, British Columbia, described in the Form C – Part 1, Item 2 hereto (collectively referred to herein as the “Lands” and individually referred to herein by legal description or by lot number);
- B. The Grantee intends to construct a parking area upon that portion of the Lands shown outlined in heavy black on Reference Plan of Easement EPP112301 (a reduced copy of which, not to scale, is attached hereto as Schedule “A”) and identified as Part A for the benefit of the Dominant Tenement Lots (as hereinafter defined) for the purposes of parking (the “Parking Easement Area”).
- C. The Grantee intends to construct a road upon or through those portions of the Lands shown outlined in heavy black on Reference Plan of Easement EPP112301 and identified as Part B, Part C, Part D and Part E for the benefit of the Dominant Tenement Lots (as hereinafter defined) for the purposes of access to the parking area (the “Access Easement Area”).
- D. For the purposes of this Easement, the improvements in the Parking Easement Area are referred to as the “Parking Works” and improvements in the Access Area Easement are referred to as the “Access Works”. The Parking Works and Access Works are collectively referred to as the “Works” and Part A, Part B, Part C, Part D and Part E on Plan EPP112301 are collectively referred to as the “Easement Area”.
- E. The City of Kelowna (the “City”) requires, and both the Dominant Tenements and Servient Tenements have agreed to grant to the City, a section 219 Covenant as herein provided for.
- F. By the provisions of Section 219 of the *Land Title Act* R.S.B.C. 1996, Chapter 250, as amended (the “Land Title Act”), there may be registered and annexed to any land, conditions or covenants in favour of the City that the land, or any specified portion thereof, is not to be built upon or is not to be used in a particular manner.

**Now therefore** this agreement witnesses that in consideration of the premises, covenants, warranties and representations herein contained, and of the sum of One (\$1.00) Dollar now paid by the Grantee to the Grantor (the receipt and sufficiency of which is hereby acknowledged by the Grantor) and for other good and valuable consideration, the parties hereby agree as follows:

- 1. In this Agreement, Lot 1, Plan EPP41204, except Plan EPP112300 and Lots 1 – 3, Plan EPP112300 are collectively called the “Servient Tenement Lots”.
- 2. In this Agreement, Lot 1, Plan EPP41204, except Plan EPP112300 and Lots 1 – 3, Plan EPP112300 are collectively called the “Dominant Tenement Lots”.
- 3. The Grantee covenants and agrees that it shall construct, or cause to be constructed, the Parking Works and shall maintain, repair, replace or renew any or all of the Parking Works in,

over and upon those portions of the Servient Tenement Lots contained within the Parking Easement Area.

4. The Grantee covenants and agrees that it shall construct, or cause to be constructed, the Access Works and shall maintain, repair, replace or renew any or all of the Access Works in, over and upon those portions of the Servient Tenement Lots contained within the Access Easement Area.
5. The Grantor as "Servient Tenement" owner of the Servient Tenement Lots does hereby grant in favour of the Grantee as "Dominant Tenement" owner of the Dominant Tenement Lots the full, free and unrestricted right and liberty to cross in, over and upon those portions of the Servient Tenement Lots contained within the Parking Easement Area for the purposes of access and use of the Parking Works.
6. The Grantor as "Servient Tenement" owner of the Servient Tenement Lots does hereby grant in favour of the Grantee as "Dominant Tenement" owner of the Dominant Tenement Lots the full, free and unrestricted right and liberty to cross in, over and upon those portions of the Servient Tenement Lots contained within the Access Easement Area for the purposes of access and use of the Access Works.
7. The grant of Easement is from each of the Servient Tenement Lots in favour of one or more of the Dominant Tenement Lots as follows:

**Servient Tenement Lot**

**Dominant Tenement Lots**

Lot 1, District Lot 134, ODYD, Plan EPP41204, except Plan EPP112300, as to Part A on Plan EPP112301

Lots 1 – 3, District Lot 134, ODYD, Plan EPP112300

Lot 1, District Lot 134, ODYD, Plan EPP41204, except Plan EPP112300, as to Part B on Plan EPP112301

Lots 1 – 3, District Lot 134, ODYD, Plan EPP112300

Lot 1, District Lot 134, ODYD, Plan EPP112300, as to Part E on Plan EPP112301

Lot 1, District Lot 134, ODYD, Plan EPP41204, except Plan EPP112300 and Lots 2 – 3 District Lot 134, ODYD, Plan EPP112300

Lot 2, District Lot 134, ODYD, Plan EPP112300, as to Part D on Plan EPP112301

Lot 1, District Lot 134, ODYD, Plan EPP41204, except Plan EPP112300 and Lots 1 and 3 District Lot 134, ODYD, Plan EPP112300

Lot 3, District Lot 134, ODYD, Plan EPP112300, as to Part C, on Plan EPP112301

Lot 1, District Lot 134, ODYD, Plan EPP41204, except Plan EPP112300 and Lots 1 and 2 District Lot 134, ODYD, Plan EPP112300

8. All covenants of the Grantor hereunder and any and all rights, duties or responsibilities of the Grantor as specified herein shall be deemed to be granted in respect to each of the Servient Tenement Lots in favour of or in respect of the Grantee as Dominant Tenement owner of each of the Dominant Tenement Lots related to such Servient Tenement Lots as specified aforesaid.

9. The Grantor for purposes aforesaid grants to the Grantee as Dominant Tenement owner, the right to enter upon and have full and uninterrupted access at all times over, through and under the Easement Area with or without workmen, vehicles, and equipment, for the purpose of repairing, cleaning and otherwise maintaining the Works on the Easement Area.
10. The Grantor covenants with the Grantee that:
  - (a) no building, structure, fence, foundation, pavement, excavation, well, pile of material or obstruction shall be made, placed, erected or maintained on any portion of the Easement Area and that no growth, except lawn grass and landscaping shall be planted upon the Easement Area;
  - (b) no residence shall be made, placed, erected or maintained within the Easement Area;
  - (c) the Grantor shall not do or knowingly permit to be done any act or thing which will interfere with or obstruct access and use of the Works;
  - (d) the Grantor shall not disturb, reshape, modify or in any way alter any portion of the finished ground surface of the Easement Area;
  - (e) the Grantor will not diminish the soil cover over any portion of the Easement Area;
  - (f) the Grantor may, as far as reasonably necessary, carry out or cause to be carried out the maintenance, repair, cleaning, renewal, replacement and/or other servicing of the Works located on or under the Easement Area in a proper and workmanlike manner should the Grantee fail to do so;
  - (g) the Grantor will repair any damage to the Easement Area occasioned by its use of the Easement.
11. The Grantee covenants with the Grantor that:
  - (a) the Grantee will, as far as reasonably necessary, carry out or cause to be carried out the maintenance, repair, cleaning, renewal, replacement and/or otherwise servicing of the Works located on or under the Easement Area in a proper and workmanlike manner, and that the cost for such maintenance, repair, cleaning, renewal and replacement and/or otherwise servicing of the Works shall be shared equally by all Grantees;
  - (b) the Grantee will not diminish the soil cover over any portion of the Easement Area;
  - (c) the Grantee will repair any damage to the Easement Area occasioned by its use of the Easement.
12. The Grantor and Grantee hereby covenant and agree each with the other, to indemnify and save harmless the other from any breach or default of any covenant hereunder until such time as their respective rights, interests, liberties, duties, obligations, and covenants are assigned, transferred, devolved or otherwise alienated.
13. It is mutually understood and agreed by and between the parties that this Agreement and the covenants herein contained shall be construed as running with the Lands.
14. Pursuant to Section 219 of the *Land Title Act* (British Columbia), it being the intention and agreement of both the Grantor and the Grantee that the provisions of this Section 14 will be annexed to and run with and be a charge on each of the Servient Tenement Lots and the Dominant Tenement Lots, each of the Grantor and Grantee covenants and agrees with the City

that the Servient Tenement Lots or Dominant Tenement Lots will not be used except in accordance with the covenants set out below, namely:

- (a) **No Interference with Easement.** No portion of the Easement Area is to be used for any purpose which would detract from or interfere with the function of the Works.
  - (b) **No Termination.** Under no circumstances whatsoever shall the easements in Sections 5 & 6 charging the Servient Tenement Lots be interrupted or terminated by reason of any breach, default, trespass or other wrong, whether by commission or omission, on the part of the Dominant Tenement owner or those claiming by, through, or under the Dominant Tenement owners or for any reason whatsoever, and the Servient Tenement owner shall refrain from seeking any judgment, order or declaration to that effect. Nothing contained herein shall prevent the Servient Tenement owner from applying to enjoin or restrain any wrongful action or from seeking damages therefore.
  - (c) **No Liability of City.** Notwithstanding anything to the contrary herein contained, the City is a party to this Agreement in respect of this Section 14, and, without limiting the generality of the foregoing, the City shall not be liable for anything done or failed to be done pursuant to or associated with any provision of this Agreement or anything contemplated thereby, whether or not such act or omission was accompanied by negligence on the part of the City.
  - (d) **No Modification or Release.** Each of the Grantor and Grantee covenant each with the other and with the City that the easements and rights granted pursuant to the provisions of this Agreement shall not be modified, abandoned, surrendered, released or discharged without the prior written consent of the City, acting reasonably.
15. The parties hereto covenant and agree that they will do and execute such further assurances as may be reasonably necessary to implement the true meaning of this Agreement.
16. Wherever the singular or masculine is used herein, the same shall be construed as meaning plural, feminine or body corporate or politic, where the contents or parties so require.
17. Nothing contained in this Agreement shall be interpreted so as to restrict or prevent the Grantor from using the Easement Area in any manner that does not interfere with the security or efficient functioning of or unobstructed access to the Works.
18. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
19. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
20. This Agreement is the entire agreement between the parties regarding its subject.
21. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

22. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

**IN WITNESS THEREOF** the parties acknowledge that this Agreement has been duly executed and delivered by the parties executing Part 1 of Form C attached to and forming part of this Agreement.

**SCHEDULE OF DOMINANT TENEMENTS**

<b>Paragraph A</b>	<b>Lots 1 – 3 District Lot 134 ODYD Plan EPP112300 NO PID</b>
<b>Paragraph B</b>	<b>Lots 1 – 3 District Lot 134 ODYD Plan EPP112300 NO PID</b>
<b>Paragraph C</b>	<b>Lot 1 District Lot 134 ODYD Plan EPP41204 except Plan EPP112300 PID: 029-373-301</b>  <b>Lots 2 – 3 District Lot 134 ODYD Plan EPP112300 NO PID</b>
<b>Paragraph D</b>	<b>Lot 1 District Lot 134 ODYD Plan EPP41204 except Plan EPP112300 PID:029-373-301</b>  <b>Lots 1 and 3 District Lot 134 ODYD Plan EPP112300 NO PID</b>
<b>Paragraph E</b>	<b>Lot 1 District Lot 134 ODYD Plan EPP41204 except Plan EPP112300 PID: 029-373-301</b>  <b>Lots 1 and 2 District Lot 134 ODYD Plan EPP112300 NO PID</b>



**LAND TITLE ACT  
FORM DECLARATION**Related Document Number: **CA9713992**

PAGE 1 OF 1 PAGES

Your electronic signature is a representation that

(a) you are a subscriber under section 168.6 of the Land Title Act, RSBC 1996 c.250, and that you are authorized to electronically sign this document by an e-filing direction made under section 168.22(2) of the act, or  
 (b) you are a designate authorized to certify this application under section 168.4 of the Land Title Act, RSBC 1996, c.250, that you certify this application under section 168.43(3) of the act, and that the supporting document or a true copy of the supporting document, if a true copy is allowed under an e-filing direction, is in your possession, or  
 (c) if the purpose of this declaration is to bring to the attention of the registrar an error, omission or misdescription in a previously submitted document under section 168.55 of the act, you certify that, based on your personal knowledge or reasonable belief, this declaration sets out the material facts accurately.

I, Margo Wideman, Legal Assistant, in the Province of British Columbia, do declare that:

1) I submitted for registration Easements and Covenant filed under pending numbers CA9713992 - CA9713997.

2) The Land Title Survey Authority of British Columbia issued a Notice Declining to Register on the following basis:

- (a) a PID number was inadvertently omitted from Item 2 of the Form C; and
- (b) the grant of covenant is to be restricted to those areas governed by the easements granted under pending registration numbers CA9713992 - CA9713996.

3) The PID for Lot 1 DL 134 ODYD Plan EPP41204 except Plan EPP112300 is 029-373-301.

4) Item 3 of the Form C, as it relates to Covenant CA9713997, should be described as follows:

"Nature of Interest	Number	Additional Information
---------------------	--------	------------------------

Covenant		Paragraph 14 Parts A - E on Plan EPP1123001"
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4) All parties to the instrument have consented to foregoing correction.

I MAKE THIS DECLARATION AND KNOW IT TO BE TRUE BASED ON PERSONAL INFORMATION/REASONABLE BELIEF.

MARGO WIDEMAN

## NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

**SURVEY PLAN CERTIFICATION  
PROVINCE OF BRITISH COLUMBIA**

Your electronic signature is a representation that you are a British Columbia land surveyor and a subscriber under section 168.6 of the *Land Title Act*, RSBC 1996 c.250. By electronically signing this document, you are also electronically signing the attached plan under section 168.3 of the act.

**Corey Doherty**  
**PR3175**  
c=CA, cn=Corey Doherty  
PR3175, o=BC Land  
Surveyor, ou=Verify ID at  
www.juricert.com/  
LKUP.cfm?id=PR3175

1. BC LAND SURVEYOR: (Name, address, phone number)

**Corey M. Doherty**  
**170-1855 Kirschner Rd**

**Corey.Doherty@vgls.ca**  
**250.300.4181**

**Kelowna BC V1Y 4N7**

Surveyor General Certification [For Surveyor General Use Only]

2. PLAN IDENTIFICATION:

Control Number: **162-466-5379**

Plan Number: **EPP112301**

This original plan number assignment was done under Commission #: **990**

3. CERTIFICATION:

Form 9     Explanatory Plan     Form 9A

I am a British Columbia land surveyor and certify that I was present at and personally superintended this survey and that the survey and plan are correct.

The field survey was completed on:	<b>2021</b>	<b>June</b>	<b>22</b>	(YYYY/Month/DD)	The checklist was filed under ECR#:
The plan was completed and checked on:	<b>2021</b>	<b>June</b>	<b>25</b>	(YYYY/Month/DD)	<b>251257</b>

None     Strata Form S

None     Strata Form U1     Strata Form U1/U2

Arterial Highway

Remainder Parcel (Airspace)

4. ALTERATION:

REFERENCE PLAN OVER PART OF LOT 1, LOT 2, AND LOT 3, PLAN EPP112300; AND LOT 1 PLAN EPP112304 EXCEPT PLAN EPP112300. ALL DISTRICT LOT 134 OSOYOOS DIVISION VALE DISTRICT

FOR THE CITY OF VANCOUVER, BRITISH COLUMBIA, CANADA  
 PLANNING TO SECTION 87(1) OF THE LAND TITLE ACT  
 BOOKS 526-530

The proposed plan is shown in 1:1000 scale. The proposed plan is shown in 1:1000 scale. The proposed plan is shown in 1:1000 scale.

LEGEND:  
 Proposed Plan  
 Existing Plan  
 Boundary  
 Easement  
 Right of Way

Approved by the City of Vancouver Planning Department on 11/11/2011.  
 City of Vancouver Planning Department  
 1111 West Broadway, Vancouver, BC V6H 1T1  
 Tel: 604-273-3300  
 Fax: 604-273-3301  
 Email: planning@vancouver.ca

This plan is subject to the provisions of the Land Title Act, S.B.C. 1986, c. 24, and the regulations made thereunder.

City of Vancouver, 11/11/2011

Lot	Area (sq. m)	Area (sq. ft)
Lot 1	1,234.56	13,345.67
Lot 2	2,345.67	25,345.67
Lot 3	3,456.78	37,345.67
Lot 4	4,567.89	49,345.67
Lot 5	5,678.90	61,345.67
Lot 6	6,789.01	73,345.67
Lot 7	7,890.12	85,345.67
Lot 8	8,901.23	97,345.67
Lot 9	9,012.34	109,345.67
Lot 10	10,123.45	121,345.67
Lot 11	11,234.56	133,345.67
Lot 12	12,345.67	145,345.67
Lot 13	13,456.78	157,345.67
Lot 14	14,567.89	169,345.67
Lot 15	15,678.90	181,345.67
Lot 16	16,789.01	193,345.67
Lot 17	17,890.12	205,345.67
Lot 18	18,901.23	217,345.67
Lot 19	19,012.34	229,345.67
Lot 20	20,123.45	241,345.67
Lot 21	21,234.56	253,345.67
Lot 22	22,345.67	265,345.67
Lot 23	23,456.78	277,345.67
Lot 24	24,567.89	289,345.67
Lot 25	25,678.90	301,345.67
Lot 26	26,789.01	313,345.67
Lot 27	27,890.12	325,345.67
Lot 28	28,901.23	337,345.67
Lot 29	29,012.34	349,345.67
Lot 30	30,123.45	361,345.67
Lot 31	31,234.56	373,345.67
Lot 32	32,345.67	385,345.67
Lot 33	33,456.78	397,345.67
Lot 34	34,567.89	409,345.67
Lot 35	35,678.90	421,345.67
Lot 36	36,789.01	433,345.67
Lot 37	37,890.12	445,345.67
Lot 38	38,901.23	457,345.67
Lot 39	39,012.34	469,345.67
Lot 40	40,123.45	481,345.67
Lot 41	41,234.56	493,345.67
Lot 42	42,345.67	505,345.67
Lot 43	43,456.78	517,345.67
Lot 44	44,567.89	529,345.67
Lot 45	45,678.90	541,345.67
Lot 46	46,789.01	553,345.67
Lot 47	47,890.12	565,345.67
Lot 48	48,901.23	577,345.67
Lot 49	49,012.34	589,345.67
Lot 50	50,123.45	601,345.67
Lot 51	51,234.56	613,345.67
Lot 52	52,345.67	625,345.67
Lot 53	53,456.78	637,345.67
Lot 54	54,567.89	649,345.67
Lot 55	55,678.90	661,345.67
Lot 56	56,789.01	673,345.67
Lot 57	57,890.12	685,345.67
Lot 58	58,901.23	697,345.67
Lot 59	59,012.34	709,345.67
Lot 60	60,123.45	721,345.67
Lot 61	61,234.56	733,345.67
Lot 62	62,345.67	745,345.67
Lot 63	63,456.78	757,345.67
Lot 64	64,567.89	769,345.67
Lot 65	65,678.90	781,345.67
Lot 66	66,789.01	793,345.67
Lot 67	67,890.12	805,345.67
Lot 68	68,901.23	817,345.67
Lot 69	69,012.34	829,345.67
Lot 70	70,123.45	841,345.67
Lot 71	71,234.56	853,345.67
Lot 72	72,345.67	865,345.67
Lot 73	73,456.78	877,345.67
Lot 74	74,567.89	889,345.67
Lot 75	75,678.90	901,345.67
Lot 76	76,789.01	913,345.67
Lot 77	77,890.12	925,345.67
Lot 78	78,901.23	937,345.67
Lot 79	79,012.34	949,345.67
Lot 80	80,123.45	961,345.67
Lot 81	81,234.56	973,345.67
Lot 82	82,345.67	985,345.67
Lot 83	83,456.78	997,345.67
Lot 84	84,567.89	1,009,345.67
Lot 85	85,678.90	1,021,345.67
Lot 86	86,789.01	1,033,345.67
Lot 87	87,890.12	1,045,345.67
Lot 88	88,901.23	1,057,345.67
Lot 89	89,012.34	1,069,345.67
Lot 90	90,123.45	1,081,345.67
Lot 91	91,234.56	1,093,345.67
Lot 92	92,345.67	1,105,345.67
Lot 93	93,456.78	1,117,345.67
Lot 94	94,567.89	1,129,345.67
Lot 95	95,678.90	1,141,345.67
Lot 96	96,789.01	1,153,345.67
Lot 97	97,890.12	1,165,345.67
Lot 98	98,901.23	1,177,345.67
Lot 99	99,012.34	1,189,345.67
Lot 100	100,123.45	1,201,345.67



SCALE 1:1000  
 0 10 20 30 40 50 60 70 80 90 100  
 METERS

SCALE 1:1000  
 0 10 20 30 40 50 60 70 80 90 100  
 METERS

SCALE 1:1000  
 0 10 20 30 40 50 60 70 80 90 100  
 METERS

SCALE 1:1000  
 0 10 20 30 40 50 60 70 80 90 100  
 METERS

SCHEDULE "K"

*Intentionally Deleted*

**SCHEDULE "L"**  
**Assignment and Assumption Agreement**

**Assignment/Assumption Agreement**

**ASSIGNMENT OF MASTER DEVELOPMENT AGREEMENT**

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BETWEEN:

**Westcorp On The Lake Limited Partnership, by its General Partner, Westcorp On The Lake Inc., (Inc. No. A0075763) a company extra-provincially under the laws of the Province of British Columbia, having an office at 1460 Pandosy Street, in the City of Kelowna, Province of British Columbia, V1Y 1P3**

(the "Assignor")

AND

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(the "Assignee")

AND

**City of Kelowna, a local government, duly incorporated under the laws of the Province of British Columbia, having an office at 1435 Water Street, in the City of Kelowna, Province of British Columbia, V1Y 1J4**

(the "City")

WHEREAS the Assignor and the City have entered into a master development agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (and any amendments thereto), a copy of which is attached hereto as Schedule "A" (the "**Master Development Agreement**"), with respect to the development of certain lands in Kelowna, British Columbia, legally described as:

PID: 029-373-301      Lot 1, District Lot 134, ODYD, Plan EPP41204

(hereinafter called the "Lands")

AND WHEREAS the Assignor and the Assignee have agreed that the Master Development Agreement shall be assigned to the Assignee, on the terms and conditions herein set forth;

AND WHEREAS the City is entering into this Agreement in order to give its consent in writing to the assignment of the Master Development Agreement with respect to the Lands, in accordance with the terms of the Master Development Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of ONE DOLLAR (\$1.00)

now paid by each of the parties to each of the others and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, the parties hereby covenant and agree as follows:

1. Assignment

The Assignor does hereby assign, set over and transfer unto the Assignee as of and from the date of this Agreement (the "Effective Date") all of the Assignor's right, title and interest, both at law and at equity, in and to the Master Development Agreement with respect to the Lands, together with all rights, benefits and advantages to be derived therefrom, to have and to hold unto the Assignee, its successors and assigns, subject, however, to the observance and performance of the obligations, agreements and covenants on the part of the Assignor contained in the Master Development Agreement, and henceforth on the part of the Assignee to be observed and performed.

2. Assignor's Covenants

The Assignor hereby covenants and agrees with the Assignee that:

- (a) all obligations, agreements and covenants contained in the Master Development Agreement have been duly observed and performed by the Assignor up to the Effective Date; and
- (b) the Assignor now has full right, power and absolute authority to assign the Master Development Agreement in the manner aforesaid, according to the true intent and meaning of this Agreement.

3. Assignee's Covenants

- (a) The Assignee hereby accepts the foregoing assignment and covenants with the Assignor that the Assignee shall and will from time to time during all of the residue of the term granted by the Master Development Agreement and every renewal thereof, perform the obligations, agreements and covenants on the part of the Assignor contained in the Master Development Agreement to be performed, and indemnify and save harmless the Assignor therefrom and from all actions, suits, costs, losses, charges, damages and expenses for or in respect thereof; provided however that the Assignee shall not be required to perform those obligations set out in clauses \_\_\_\_\_ of the Master Development Agreement;
- (b) The Assignee hereby covenants and agrees with the City that:
  - (i) Except for those clauses of the Master Development Agreement referred to in paragraph 3(a) of this Agreement, it will at all times during the balance of the term of the Master Development Agreement observe and perform the terms, covenants and conditions contained in the Master Development Agreement respectively reserved and contained on the part of the Assignor therein to be observed and performed as and when the same are required to be observe and performed as provided by the Master Development Agreement; and
  - (ii) it will indemnify and save harmless the City from all actions, suits, costs, losses, charges, demands and expenses for and in respect of any such non-observance or non-performance.

4. City's Consent

The City consents to this Assignment of the Master Development Agreement from the Assignor to the Assignee as of and from the Effective Date upon and subject to the following terms and conditions, that:

- (a) This consent does not in any way derogate from the rights of the City under the Master Development Agreement nor operate to release the Assignor from the non-observance or non-performance of the terms, covenants and conditions in the Master Development Agreement on the part of the Assignor therein to be observed and performed and notwithstanding the within assignment, the Assignor shall remain liable for the observance and performance of the terms, covenants and conditions contained in the Master Development Agreement;
- (b) This consent does not constitute a waiver of the necessity for consent to any further assignment of the Master Development Agreement which must be completed in accordance with the terms of the Master Development Agreement. If the Assignee proposes to effect a further assignment of the Master Development Agreement, the terms of the Master Development Agreement with respect to an assignment shall apply to any such further assignment;
- (c) By giving its consent pursuant to this Agreement, the City does not hereby acknowledge or approve of any of the terms of this assignment as between the Assignor and the Assignee, except for the assignment of the Master Development Agreement itself per clause 3(a) and the Assignee's indemnity to the City per clause 3(b); and
- (d) The Assignor and the Assignee shall, at their expense, promptly execute such further assurances with respect to the Master Development Agreement as City reasonably requires from time to time.

5. Acknowledgment

The Assignee acknowledges that it has received a copy of the executed Master Development Agreement and is familiar with the obligations, agreements and covenants contained therein.

6. Confirmation

The parties hereby confirm that, in all other respects, the Master Development Agreement is in full force and effect, unchanged and unmodified except in accordance with this Agreement.

7. Capitalized Terms

All capitalized terms when used in this Agreement shall have the meaning ascribed thereto in the Master Development Agreement, unless otherwise defined herein.

8. Binding

This Agreement shall enure to the benefit of the City and shall be binding upon each of the other parties and each of their permitted successors and assigns, respectively.

9. Time of the Essence



Time shall be of the essence of this Agreement and of all the transactions contemplated in it.

IN WITNESS WHEREOF the parties hereto have hereunto executed the Agreement.

Officer Signature(s)

\_\_\_\_\_

Execution Date

Y M D

\_\_\_/\_\_\_/\_\_\_

Party(ies) Signature(s)

**Westcorp On The Lake Limited  
Partnership, by its General Partner,  
Westcorp On The Lake Inc.**  
by its authorized signatory

\_\_\_\_\_  
Name: **Phil Milroy**  
Assignor

Officer Signature(s)

\_\_\_\_\_

Execution Date

Y M D

\_\_\_/\_\_\_/\_\_\_

Party(ies) Signature(s)

\_\_\_\_\_  
\_\_\_\_\_  
by its authorized signatory

\_\_\_\_\_  
Name:  
Assignee

Officer Signature(s)

\_\_\_\_\_

Execution Date

Y M D

\_\_\_/\_\_\_/\_\_\_

Party(ies) Signature(s)

**CITY OF KELOWNA**  
by its authorized signatory(ies)

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

(as to both signatures)

**SCHEDULE "A"**  
**Master Development Agreement**

**SCHEDULE "M"**  
**Density – Section 219 Covenant**

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS AGREEMENT dated for reference the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BETWEEN:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(hereinafter called the "Transferor")

AND:

CITY OF KELOWNA  
1435 Water Street  
Kelowna, B.C. V1Y 1J4

(hereinafter called the "Transferee")

A. The Transferor is the registered owner of those lands and premises in the City of Kelowna , in the Province of British Columbia legally described as:

Parcel Identifier: NO PID

Legal Description: Lot \_\_\_\_\_, District Lot 134, ODYD, Plan EPP \_\_\_\_\_

(hereinafter called the "Lands");

B. Section 219 of the *Land Title Act* provides that a covenant, in favour of a municipality as transferee, whether of a negative or positive nature, in respect to the use of land or that land is or is not to be built on in favour of the transferee, may be registered as a charge against the title to that land and is enforceable against the transferor and his successors in title even if the covenant is not annexed to land owned by the transferee.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to Section 219 of the *Land Title Act*, and in consideration of the sum of ONE (\$1.00) DOLLAR now paid to the Transferor by the Transferee (the receipt and sufficiency whereof is hereby acknowledged), the parties hereto agree and covenant with each other as follows:

1. The Transferor shall not construct any improvements on the Lands that exceeds a maximum Net Floor Area of \_\_\_\_\_ m<sup>2</sup>. For the purposes of this Covenant, Net Floor Area means the sum of the horizontal areas of each storey of the building measured from the exterior faces of the exterior walls providing that in the case of a wall containing windows, the glazing line of the

windows may be used. The net floor area measurement is exclusive of areas of basement areas used exclusively for storage or service to the building, attics, attached garages, carports, breezeways, porches, balconies, exit stairways, corridors, and terraces. In the case of multiple dwelling housing, public corridors, common amenity spaces, and building mechanical systems are also excluded. In the case of congregate housing, communal dining and kitchen facilities are excluded.

2. The Transferor releases the Transferee and shall indemnify and save harmless the Transferee and its councillors, officers and employees from any claim of any nature by the Transferor or any other person, that may be made against the Transferee or its councillors, officers or employees in connection with the granting or existence or enforcement of this Agreement or the breach by the Transferor of the covenants in this Agreement.
3. The Transferor shall comply with all requirements of this Agreement at its own cost and expense.
4. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
5. The rights given to the Transferee by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Transferee to anyone, or obliges the Transferee to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement, except that nothing in this section shall affect the contractual rights and obligations of the parties hereto under this Agreement.
6. This Agreement shall restrict use of the Lands in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the Transferee.
7. Where the Transferee is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Transferor agrees that the Transferee is under no public law duty of fairness or natural justice in that regard and agrees that the Transferee may do any of those things in the same manner as if it were a private party and not a public body.
8. This Agreement does not
  - (a) affect or limit the discretion, rights or powers of the Transferee under any enactment (as defined in the Interpretation Act on the reference date of this Agreement) or at common law, including in relation to the use or subdivision of the Lands;
  - (b) affect or limit any enactment relating to the use or subdivision of the Lands, or
  - (c) relieve the Transferor from complying with any enactment, including in relation to the use or subdivision of the Lands,

and the Transferor covenants and agrees to comply with all such enactments with respect to the Lands.

9. Every obligation and covenant of the Transferor in this Agreement constitutes both a contractual obligation and a covenant granted under s. 219 of the *Land Title Act* in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the successors in title to the Lands. This Agreement burdens and charges all of the Lands and any parcel into which the Lands is subdivided by any means and any parcel into which the Lands is consolidated (including by removal of interior parcel boundaries) and shall be extended, at the Transferor's cost, to burden and charge any land consolidated with the Lands.
10. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
11. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
12. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
13. The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
14. Time is of the essence of this Agreement.
15. This covenant is not intended to create a partnership, joint venture, or agency between the Transferor and the Transferee.
16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

**SCHEDULE "N"**  
**City – Statutory Right of Way Regarding Water**







**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.

<p style="text-align: center;">Witnessing Officer Signature</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p><b>Patrick R. Bobyn</b>  <b>Barrister &amp; Solicitor</b>        301 - 1665 Ellis Street        Kelowna BC V1Y 2B3</p>	<p style="text-align: center;">Execution Date</p> <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>YYYY-MM-DD</p> <p><b>2021-10-08</b></p> </div>	<p style="text-align: center;">Transferor Signature(s)</p> <p><b>WESTCORP ON THE LAKE INC.</b>        By their Authorized Signatory</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p><b>Philip Milroy</b></p>
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**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.

<p style="text-align: center;">Witnessing Officer Signature</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p><b>Fiona Dawn Hands</b>  <b>Commissioner for Taking Affidavits</b>  <b>for British Columbia</b>        1435 Water Street        Kelowna BC V1Y 1J4</p>	<p style="text-align: center;">Execution Date</p> <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>YYYY-MM-DD</p> <p><b>2022-02-11</b></p> </div>	<p style="text-align: center;">Transferor Signature(s)</p> <p><b>CITY OF KELOWNA</b>        TRANSFEREE        By their Authorized Signatory</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p><b>Loyal Woolridge</b></p>
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**Stephen Fleming**

**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.

<p><b>Electronic Signature</b></p> <p>Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the <i>Land Title Act</i>, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.</p>	<div style="border: 1px solid black; padding: 5px;"> <p><b>Bradley Cameron</b>  <b>Cronquist</b>  <b>UQWCMU</b></p> <p>Digitally signed by  <b>Bradley Cameron</b>  <b>Cronquist UQWCMU</b>  <b>Date: 2022-02-11</b>  <b>14:22:33 -08:00</b></p> </div>
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**TERMS OF INSTRUMENT - PART 2**  
**STATUTORY RIGHT OF WAY AGREEMENT**

**GIVEN THAT:**

- A. "Grantee" means collectively the party(ies) described as Transferee(s) in Form C – Part 1, Item 6 hereto;
- B. "Grantor" means collectively the party(ies) described as Transferor(s) in Form C – Part 1, Item 5 hereto;
- C. "Lands" means collectively the land described in Form C – Part 1, Item 2 and individually referred to by Lot number;
- D. "Right of Way" means the Lands;
- E. The Grantor is the registered owner of the Lands;
- F. The Grantor has agreed to grant to the Grantee a statutory right of way to facilitate the construction, installation, improvement, extension, removal, alteration, repair, maintenance, operation, and replacement of certain water works, including all pipes, valves, fittings, hydrants, lines, meters, appliances, facilities, attachments, devices, and other ancillary or incidental things, or any of them, ("Works"), such Works to be located substantially in those areas shown on the sketch plan attached hereto as Schedule "A";
- G. This statutory right of way is necessary for the operation and maintenance of the Grantee's undertaking.

**THIS AGREEMENT IS EVIDENCE** that in consideration of \$1.00 now paid by the Grantee to the Grantor, and other good and valuable consideration (the receipt and sufficiency of which the Grantor hereby acknowledges), and of the mutual covenants and agreements set out in this Agreement, the Grantor and Grantee covenant and agree, and the Grantor hereby grants to the Grantee, as follows:

- 1. Pursuant to Section 218 of the *Land Title Act* the Grantor grants, conveys and confirms to the Grantee, in perpetuity, the full, free and uninterrupted right, liberty, easement and statutory right of way, for the Grantee and its licensees, employees, agents, officials, contractors, and workers at all times hereafter, by day and by night at their will and pleasure, to enter, go, be on, pass and re-pass, with or without vehicles, personal property or equipment, upon, over, under and across the Right of Way, to:
  - (a) lay down, entrench, construct, erect, dig, and install the Works upon the Right of Way and to repair, operate, maintain, inspect, alter, remove, bury, cleanse, clear, string, replace, or otherwise establish the Works from time to time in the Grantee's discretion;
  - (b) to have unobstructed access over the Lands for egress to and from the Right of Way at any and all times;
  - (c) make surveys and tests;

- (d) establish grades and levels;
- (e) excavate or otherwise alter the contours of the Right of Way and to backfill trenches;
- (f) store all personal property (including equipment) necessary to carry out the activities referred to in Section 1(a), provided that the Grantee shall consult the Grantor as to the duration and location of such storage, which is to be limited to the time and place necessary to complete the work for which it is needed;
- (g) remove from the Right of Way such structures, improvements, fixtures, fences, gates, cattle guards, trees, shrubs, plants, and other obstructions whatsoever, as, in the Grantee's opinion, is necessary in order to carry out the activities referred to in Section (a) to (f); and
- (h) do all other things on the Right of Way as may be reasonably required in connection with the foregoing.

2. The Grantor must:

- (a) not do or permit to be done any act or thing which in the opinion of the Grantee may interfere with, injure, impair the operating efficiency of, or obstruct access to or the use of, the Right of Way or the Works;
- (b) trim or, if the Grantee thinks it necessary, cut down any tree or other growth on the Lands which in the opinion of the Grantee constitutes or may constitute a danger or obstruction to those using the Right of Way or to the Works;
- (c) execute all further documents and things whatsoever for the better assuring unto the Grantee of the Right of Way hereby granted;
- (d) permit the Grantee to peaceably hold and enjoy the rights hereby granted;
- (e) maintain, care for and clear the surface of the Right of Way and remove grass and other growth from the surface of the Right of Way as required by the Grantee and do all other things deemed by the Grantee to be reasonably necessary for the safe use and preservation of the Right of Way;
- (f) maintain and care for the Right of Way and keep it clean from garbage and noxious debris;
- (g) not diminish or increase the soil cover over any of the Works in the Right of Way and in particular, without limiting the foregoing, must not construct open drains or ditches along or across any of the Works in the Right of Way.

3. The Grantee must and may peaceably hold and enjoy the rights, liberties, and right of way hereby granted without hindrance, molestation, or interruption by the Grantor or any person, firm, or corporation claiming by, through, under, or in trust for the Grantor.

4.

- (a) The Works installed by the Grantee in, on, or under the Right of Way remain chattels and the property of the Grantee, despite the fact that the same may be annexed or affixed to the freehold, and the Works may at any time be removed in whole or in part by the Grantee in its discretion.
- (b) In the event that the Grantee abandons the Works or any part thereof the Grantee may, if it so elects, leave the whole or any part thereof in place.

5.

- (a) In the exercise of its powers under this Agreement, the Grantee may remove anything placed on the Right of Way by the Grantor but, except for the Works, must, so far as possible and subject to Sections 1 and 2 hereof, restore the Right of Way to substantially its original condition, so far as is reasonably practicable, promptly after completing the Works.
- (b) Despite Section 5(a), nothing in this Agreement requires the Grantee to restore any trees or surface growth but the Grantee must leave the lands in a condition that will not inhibit natural re-generation of such growth.

6. The Grantee must do all Works and other things authorized under this Agreement to be done by it over, through, under, and upon the Right of Way in a good and workmanlike manner so as to cause no unnecessary damage or disturbance to the Right of Way or to any improvements thereon.

7. Nothing in this Agreement restricts the Grantor from using the Right of Way in any manner which does not interfere with or endanger the activities referred to in Section 1 or the unobstructed access to the Works, but the Grantor must not erect, construct or install any building, improvement, structure (including a manufactured home, pipe or wire), driveway or patio (other than asphalt driveways or patios) on the Right of Way, or permit anything to be placed or exist on it or done on it, that may injure, interfere with or obstruct the Works or prevent reasonable access to the Works by the Grantee. The Grantor must not carry on blasting on or adjacent to the Right of Way without the Grantee's prior written consent. Whenever reasonably possible, the Grantee may cross over the remainder of the Lands to gain access to the Right of Way to perform work on it and, in any event, may use a strip of land 3 m in width on either side of, and running parallel to and the length of, and being adjacent to, the Right of Way for the purpose of performing work on the Right of Way, provided that the Grantee must exercise reasonable care to minimize any damage to the Lands or improvements on the Lands outside the Right of Way and, if such damage is caused, must remedy it promptly at its cost.

8. If the Grantor defaults in observance or performance of its obligations under this Agreement, the Grantee, after 20 days' prior written notice to the Grantor specifying the default and at any time in case of emergency, may (but is not obliged to) rectify the default, and the Grantor must pay to the Grantee, on demand, its reasonable costs in connection with so rectifying.

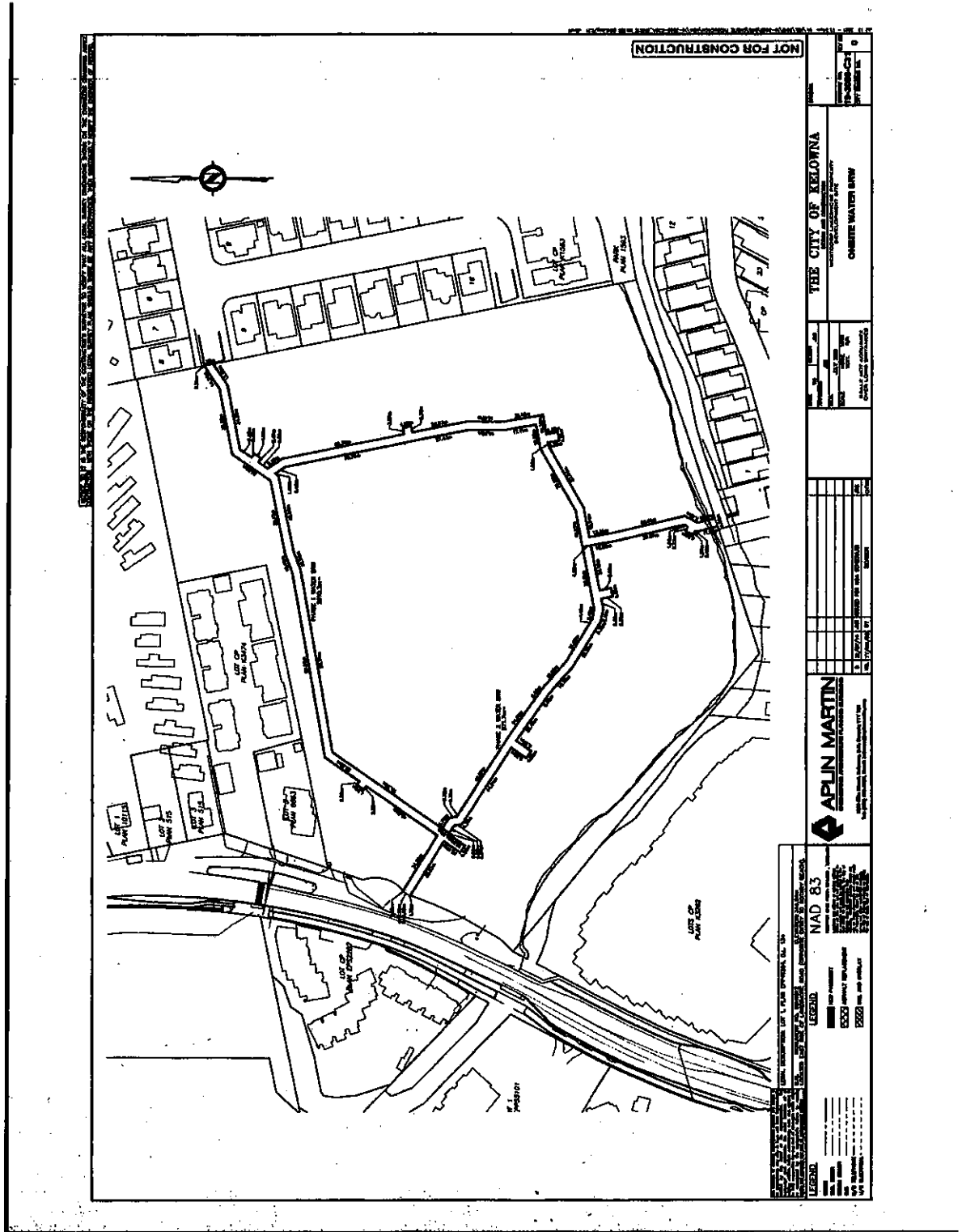
9. No right herein granted to or reserved by the Grantee requires the Grantee to clean, repair, or maintain the Works or the Right of Way, unless the Grantee is expressly required under this Agreement to perform such cleaning, repairing, or maintenance.
10. Upon completion of construction of the Works, the Grantor may, at its sole option and expense, arrange to have the Works surveyed by an accredited British Columbia Land Surveyor. The City hereby agrees that it will provide a discharge of this Statutory Right of Way at the request of the Grantor provided that the Grantor shall provide a replacement statutory right of way, substantially on the same terms and conditions as contained in this Statutory Right of Way, with a 3 meter area on either side of the location of the Works being the right of way area and identified by survey. The Grantor shall be responsible for any and all costs associated with the discharge of this Statutory Right of Way and registration of a replacement statutory right of way.
11. This Agreement is to be construed as running with the Lands but no part of the fee of the soil passes to or is vested in the Grantee under or by this Agreement and the Grantor may fully use the Right of Way subject only to the rights and restrictions set forth in this Agreement.
12. The Grantor must, after execution hereof by it at the expense of the Grantor, do or cause to be done all acts necessary to grant priority to this Agreement over all financial charges and encumbrances which are registered, or pending registration, against the title to the Lands in the Land Title Office save and except those as have been specifically approved in writing by the Grantee or have been granted in favour of the Grantee.
13. Despite anything contained in this Agreement the Grantee reserves all rights and powers of expropriation otherwise enjoyed by the Grantee.
14. Waiver of any default by either party is not to be deemed to be a waiver of any subsequent default by that party.
15. This Agreement runs with the Lands and every part or parts thereof, and attaches to and runs with the Lands and each and every part to which the Lands may be divided or **Subdivided** whether by **Subdivision** plan, strata plan, or otherwise.
16. Whenever it is required or desired that either party must deliver or serve a notice on the other, delivery or service is deemed to be satisfactory if and deemed to have occurred when:
  - (a) the Clerk of the Grantee or the Grantor, as the case may be, has been served personally, on the date of service; or
  - (b) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada post office, whichever is the earlier, so long as the notice is mailed to the party at the address provided herein or to whatever address the party may from time to time provide to the other party.
17.
  - (a) Wherever the singular or masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as

the context so requires.

- (b) Where the Grantor includes more than one person, all covenants in this Agreement on the part of the Grantor shall be construed as joint and several.
18. Every reference to each party is deemed to include the heirs, executors, administrators, successors, assigns, employees, agents, officers, and invitees of such party wherever the context so requires or allows.
  19. Any opinion which the Grantee is entitled by virtue of this Agreement to form may be formed on behalf of the Grantee by the Grantee's **Director of Civic Operations** in which event the opinion of that person is deemed to be the opinion of the Grantee for the purposes of this Agreement.
  20. If any section, sub-section, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion is to be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.
  21. Where, on the reference date of this Agreement, the Grantor is not the sole registered owner of the Lands, this Agreement shall nevertheless bind the Grantor to the full extent of the Grantor's interest in the Lands, and where the Grantor acquires a greater or the entire interest in fee simple, this Agreement extends to the after-acquired interests.
  22. Where the expression "Grantor" includes more than one person, all covenants herein on the part of the Grantor shall be construed as being several as well as joint.
  23. This Agreement enures to the benefit of and is binding on the parties hereto notwithstanding any rule of law or equity to the contrary.
  24. This Agreement may be assigned by the Grantee without the consent of the Grantor.
  25. Despite anything contained in this Agreement, neither the Grantor named in this Agreement nor any future owner of the Lands or any portion thereof is liable under any of the covenants and agreements contained in this Agreement where such liability arises by reason of an act or omission occurring after the Grantor named in this Agreement or any future owner ceases to have a further interest in the Lands.
  26. Wherever this Agreement creates a power or obligation of the Grantee to make a decision or to exercise any contractual right or remedy, the Grantee may do so in accordance with the provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, shall have any application.
  27. This Agreement is to be governed and construed according to the laws of the Province of British Columbia.
  28. Words in this Agreement shall have the meaning assigned to them in the City of Kelowna **Subdivision, Development & Servicing Bylaw No. 7900** as amended to the date of this Agreement.



Schedule "A"



NOT FOR CONSTRUCTION

**THE CITY OF KELOWNA**  
 WATER AND SEWER DEPARTMENT  
 CONCRETE WATER MAIN

**APLIN MARTIN**  
 ENGINEERS AND ARCHITECTS  
 1000 BROADVIEW AVENUE  
 KELOWNA, B.C. V1Y 9V6  
 TEL: (250) 868-1111  
 FAX: (250) 868-1112  
 WWW.APLINMARTIN.COM

**NAD 83**

**LEGEND**

- PROPOSED WATER MAIN
- EXISTING WATER MAIN
- EXISTING SANITARY MAIN
- EXISTING GAS MAIN
- EXISTING ELECTRIC MAIN
- EXISTING TELEPHONE MAIN
- EXISTING CABLE MAIN
- EXISTING FIBRE OPTIC MAIN
- EXISTING DRAINAGE MAIN
- EXISTING STORM MAIN
- EXISTING SEWER MAIN
- EXISTING WATER MAIN
- EXISTING SANITARY MAIN
- EXISTING GAS MAIN
- EXISTING ELECTRIC MAIN
- EXISTING TELEPHONE MAIN
- EXISTING CABLE MAIN
- EXISTING FIBRE OPTIC MAIN
- EXISTING DRAINAGE MAIN
- EXISTING STORM MAIN
- EXISTING SEWER MAIN

**DATE:** \_\_\_\_\_  
**SCALE:** \_\_\_\_\_  
**PROJECT NO.:** \_\_\_\_\_  
**CLIENT:** \_\_\_\_\_  
**DESIGNED BY:** \_\_\_\_\_  
**CHECKED BY:** \_\_\_\_\_  
**DATE OF ISSUE:** \_\_\_\_\_

**Schedule "O"**  
**Section 219 Storm and Sanitary Sewer Covenant**

**TERMS OF INSTRUMENT - PART 2**

**RESTRICTIVE COVENANT: LAND TITLE ACT S.219**

THIS AGREEMENT dated for reference the \_\_\_\_ day of \_\_\_\_\_, 2022.

BETWEEN:

WESTCORP ON THE LAKE INC. 200, 8215 – 112 Street  
Edmonton, AB T2G 2C8

(the "Owner")

AND:

CITY OF KELOWNA  
1435 Water Street  
Kelowna, B.C. V1Y 1J4

(the "City")

WHEREAS:

- A. The Owner is the registered owner of those lands and premises in the City of Kelowna, in the Province of British Columbia, as more particularly described in Item 2 of Part 1 of this instrument (the "Lands");
- B. Pursuant to a Master Development Agreement between the Owner and the City dated for reference \_\_\_\_\_, the Owner agreed to maintain the roads, sidewalks, streetscapes, landscapes and common amenities on the Lands (the "Onsite Works");
- C. The City has accepted the Owner's proposition to dispose of storm water and sanitary sewage generated within their Lands by means of certain works comprising of a chamber with a pump unit and controls, the entire storm water and sanitary service connection force main and all auxiliary components, from the building to the curb stop assembly connection thereinto the City's storm water and sanitary force main (the "Storm and Sanitary Works"). The Storm and Sanitary Works upon completion will remain in the ownership of the Owner, to be perpetually operated, maintained, repaired and replaced, when necessary, by the Owner at no cost to the City and shall include any required surface and sub-surface restoration costs;
- D. Section 219 of the *Land Title Act*, R.S.B.C. 1996, Chapter 250, and amendment thereto (the "*Land Title Act*"), provide that there may be registered and annexed to any land, conditions or covenants in favour of the City that the land or any certified portion thereof is to be used and the use of a building on or to be erected on the Lands to be constructed in a certain fashion and maintained by the owner of the Lands, its successors and assigns; and
- E. The City as covenantee has required an indemnity pursuant to Section 219 of the *Land Title Act*.

NOW THEREFORE THIS AGREEMENT WITNESSETH that pursuant to Section 219 of the *Land Title Act*, and in consideration of ONE (\$1.00) DOLLAR now paid to the Owner by the City (the receipt of which is hereby acknowledged) the Owner covenants and agrees with the City as follows:

1. The Lands shall not be occupied unless the Storm and Sanitary Works are designed by a Professional Engineer, constructed in accordance with the British Columbia Plumbing Code and the City's Subdivision, Development and Servicing Bylaw No. 7900, as amended from time to time, and are operated and maintained for the disposal of storm water and sanitary sewage generated on the Lands.
2. The Owner shall, at its expense, operate the Storm and Sanitary Works and the Onsite Works and carry out or cause to be carried out the maintenance, repair, cleaning, renewal, replacement and otherwise servicing of the Storm and Sanitary Works and the Onsite Works to the satisfaction of the City.
3. The Owner covenants and agrees with the City that the Storm and Sanitary Works for residential dwellings located on the Lands will have been provided through a low pressure storm water and sanitary system and the pumping system will be installed to the satisfaction of the City.
4. If the Owner fails or neglects to adequately repair, maintain, clean, protect and otherwise service the Storm and Sanitary Works or the Onsite Works within a period of sixty (60) days following the City's written notification to the Owner to do so, or such longer period as may be reasonably required to complete such maintenance, repair, cleaning, protection or other servicing, the City may, but shall in no way be obligated to, enter on the Lands to carry out the maintenance, repair, cleaning, protection or servicing at the cost of the Owner, and the Owner shall repay to the City 110% of the costs incurred by the City in so doing forthwith 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 contracted by the City and may use such equipment and machinery as it deems necessary and that, in the event that the City's bill for the cost of maintenance, repair, cleaning, protection or servicing remains unpaid for a period of ninety (90) days from the date it is delivered to the Owner, the City shall be authorized to recover the cost of such maintenance, repair, cleaning, protection or servicing, with interest at the rate of six (6) percent per annum, as a debt due and owing to the City. The parties agree that the City has no responsibility to monitor the condition of the Storm and Sanitary Works or the Onsite Works.
5. 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 or private statutes, by-laws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered to the Owner.
6. 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 this Agreement may only be modified or discharged by agreement of the City pursuant to the provisions of Section 219(9) of the *Land Title Act*.
7. Notwithstanding anything contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands unless the Owner fails to obtain the agreement referred to in section 13.

8. Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic, where the contents or parties so require.
9. The Owner hereby covenants and agrees with the City that the City is not required or is under no obligation in law or equity to prosecute or enforce this Agreement in any way whatsoever.
10. The parties shall do and cause to be done all such things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.
11. The Owner hereby releases, indemnifies and saves harmless the City, its elected and appointed officials, employees and agents from and against any and all liability, actions, causes of actions, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the City arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement or any default of the Owner under or in respect of this Agreement.
12. The Owner shall, at the Owner's expense, do or cause to be done all acts reasonably necessary to register this Agreement against title to the Lands with priority over all financial charges, liens and encumbrances registered or pending registration at the time of application for registration of this Agreement against title to the Lands.
13. The Owner covenants and agrees to obtain from any prospective purchaser, leaseholder, tenant and other transferee of the Lands referred to herein, an agreement to be bound by the terms of this Agreement.
14. This Agreement shall be binding upon and enure to the benefit of the respective parties hereto, their heirs, successors, executors, administrators and assigns.
15. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
16. If any section, subsection, clause or phrase of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdictions, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.
17. The Owner shall comply with all requirements of this Agreement at its own cost and expense.