

MEMORANDUM OF UNDERSTANDING

APPENDIX 1

SUBDIVISION SERVICING AGREEMENT

REGIONAL DISTRICT OF NANAIMO
SUBDIVISION SERVICING AGREEMENT
(List the Name of Subdivision or Development here)

THIS AGREEMENT made the ____ day of _____, 20____
(hereinafter called the "Agreement")

BETWEEN:

REGIONAL DISTRICT OF NANAIMO

6300 Hammond Bay Road
Nanaimo BC
V9T 6N2

(hereinafter called the "Regional District")

OF THE FIRST PART

AND

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS the Developer is the registered Developer or holder of a Registered Right to Purchase lands and premises situate, lying and being in the Regional District of Nanaimo, Province of British Columbia and more particularly known and described as:

(legal description)

(hereinafter called the "Lands")

AND WHEREAS the Developer wishes to subdivide the Lands, or part thereof, in the manner shown on a Subdivision Plan, which has been submitted by the Developer to the Provincial Approving Officer for approval. A copy of said plan is attached hereto as Appendix "A", and is hereinafter called the "Subdivision Plan";

AND WHEREAS the Developer is desirous of entering into this Agreement with the Regional District pursuant to the provisions of Section 940 of the *Local Government Act* in order to obtain approval from the Provincial Officer for the Subdivision Plan prior to the completion of the construction and installation of all works required under the provisions of the Land Use and Subdivision Bylaw to be constructed and installed by the Developer.

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

1. In this Agreement, unless the context otherwise requires all words and expressions shall have the same meaning assigned to them as like words or expressions contained in the Interpretation section of the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500.
2. The Developer covenants and agrees to retain the services of a qualified professional engineer registered in the Province of British Columbia (name of engineering company retained) to complete the design, construction and supervision of construction complete with all necessary inspections and testing to ensure the project is constructed to the design parameters and specifications. The Developer shall not terminate the services of the professional engineer without the written consent of the Regional District.
3. The Developer covenants and agrees to construct and install on the Lands and off-site, as the case may be, in accordance with the plans and specifications marked "Approved For Construction" by the Regional District Engineer and initially by each of the parties hereto for identification, the following work:

_____community sanitary sewage works
_____community water works
_____community street lighting works

Each of the parties hereto acknowledge having in its or his possession a true copy of the aforesaid plans and specifications, hereinafter called the "Approved Engineering Plans", and acknowledge and agree that the Approved Engineering Plans are hereby incorporated into and make part of this Agreement and are attached as Appendix "B".

4. The Developer covenants and agrees that upon substantial performance of the work as certified by the Developer's Engineer and approved by the Regional District Engineer, the Developer will enter into a Maintenance Agreement, including the holding of 10% of the total amount of works and service or \$10,000 (whichever is greater), to warrant for the maintenance of the work against defects arising from faulty installation, materials or workmanship for a period of twenty-four (24) months (*may be reduced in writing by the Regional District from the date of substantial performance as approved by the Regional District*).
5. All work must be carried out by the Developer or his contractors in accordance with the Approved Engineering Plans, and in accordance with the provisions of the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 or latest version. Where the provisions of the Approved Engineering Plans and the RDN Subdivision and Development Bylaw conflict, the more stringent provisions shall apply.
6. The cost of all work herein shall be at the expense of the Developer. The Developer must employ only qualified contractors to carry out and complete the work.
7. The Developer must obtain and provide to the Regional District upon request and free of charge true copies of all contracts and sub-contracts entered into by the Developer or its contractors and relating works.

8. The decision of the Regional District Engineer shall be final and binding on all parties hereto in determining whether or not the work or any part thereof has been carried out and completed in accordance with the provisions of this Agreement.
9. As soon as the Developer is satisfied that he has caused the work to be completed, and prior to issuance of a "Certificate of Substantial Completion", the Developer shall submit to the Regional District Engineer:
 - a. Final "As Constructed" drawings of all work constructed hereunder, sealed by a British Columbia professional engineer and comprised of the following: a mylar copy, an electronic copy in AutoCAD format compatible with the latest version owned by the RDN, two full size paper copies, two 11 x 17 inch paper copies and one TIFF file.
10. The Developer shall cause all work herein to be carried out and completed no later than the ___ day of _____, 20__ (hereinafter called the "Completion Date").
11. Prior to final approval and as security for the due and proper performance by the Developer of all his covenants and agreements herein contained, the Developer shall deposit with the Regional District an unconditional, Irrevocable Letter of Credit, in a form acceptable to the Regional District of Nanaimo, or cash, drawn on a chartered bank in Canada for a term of not less than twenty-four (24) months. The letter of credit shall be in the amount as specified above in paragraph 4. The Irrevocable Letter of Credit is attached as Appendix "C".
12. The Developer agrees that if the work, or any part thereof, is not completed in accordance with the provisions of this Agreement by the Completion Date, or if the Developer shall be in default of any of his covenants herein contained, and such default shall continue for a period of fourteen (14) days after notice thereof has been given by the Regional District to the Developer, the Regional District may call for and receive funds secured by the Letter of Credit and the Regional District may complete the work at the expense of the Developer and deduct from any fund held by the Regional District as security hereunder, the cost of such completion, and the balance of the security, if any, will be returned to the Developer less any administration fees and costs incurred by the Regional District. If there is insufficient money on deposit with the Regional District by reason of the security deposit, then the Developer will pay such deficiency to the Regional District immediately upon receipt of an invoice from the Regional District. It is understood and agreed that the Regional District may do such work either by itself, or by contractors employed by the Regional District.
13. The Regional District may consent to a reduction in the amount secured by the Letter of Credit, or cash, from time to time in accordance with the following:
 - a. The credit reduction will be equal to the cost of work completed, minus a 10% holdback, as submitted by the Developer's engineer and as approved by the Regional District Engineer; and
 - b. No reduction will be allowed for an amount, which represents less than 10% of the total cost of construction and installation of the work.

14. The Developer covenants and agrees to indemnify and save harmless the Regional District, its Board, officers, agents and employees from and against all actions, proceedings, costs, damages, expenses, claims and demands whatsoever and by whomever brought or made against the Regional District or its Board, officers, agents and employees, relating directly or indirectly from the design, construction, or installation of the work.
15. The Developer acknowledges and agrees that the Regional District will not issue Building Permits on any of the parcels created by the subdivision of the Lands, and no building shall occur on the Lands until the Regional District Engineer has issued the "Certificate of Substantial Completion".
16. The Developer covenants and agrees that the Developer shall give all prospective purchasers a copy of this Agreement and bring their attention to paragraph 15 of this Agreement which restricts their ability to apply for building permits.
17. In consideration of due and proper performance by the Developer of the covenants herein contained, the Regional District covenants and agrees to permit the Developer to carry out and perform the work.
18. Any demand or notice required or permitted to be given under the provisions of this Agreement must be in writing and may be given by mailing such notice by prepaid registered post to the party concerned at the address for such party first above recited, and any such notice or demand mailed as aforesaid must be deemed to have been received by the party to whom it is addressed on the second business day after the date of posting thereof.
19. The Developer acknowledges and agrees that the works become the property of the Regional District by entering into a Transfer Agreement or the agency having jurisdiction subject to no encumbrances upon issuance of a "Certificate of Substantial Completion", by the Regional District Engineer. Notwithstanding the above, nothing herein contained must derogate from the obligation of the Developer to warrant for the maintenance of the work against defects arising from faulty installation, materials, or workmanship for a period of twenty-four (24) months following the date of substantial performance as aforesaid.
20. It is understood and agreed that the Regional District has made no representations, covenants, warranties, guarantees, promises or agreements, oral or otherwise, with the Developer other than those contained in this contract.
21. Wherever the singular or masculine is used herein, the same must be construed as meaning the plural, feminine, or body corporate or politic where the context or the parties so require.
22. This Agreement and the terms, covenants and conditions herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at the Regional District of Nanaimo, Province of British Columbia, the ____ day of the _____, 20__.

Executed by the)
REGIONAL DISTRICT OF NANAIMO)
this ____ day of _____, 20__,)
by its authorized signatories:)
)
)
)
_____)
Chief Administrative Officer)
)
)
)

Manager Administrative Services

Executed by the Developer)
this ____ day of _____, 20__)
by its authorized signatories:)
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_____)
)
)
)

Appendix "A"

SUBDIVISION PLAN

Appendix "B"

APPROVED ENGINEERING PLANS

Appendix "C"

IRREVOCABLE LETTER OF CREDIT

MEMORANDUM OF UNDERSTANDING

APPENDIX 2

MAINTENANCE AGREEMENT

**REGIONAL DISTRICT OF NANAIMO
MAINTENANCE AGREEMENT**
(List the Name of Subdivision or Development here)

THIS AGREEMENT made the ____ day of _____, 20__

(hereinafter called the "Agreement")

BETWEEN:

REGIONAL DISTRICT OF NANAIMO
6300 Hammond Bay Road
Nanaimo BC
V9T 6N2

(hereinafter called the "Regional District")

OF THE FIRST PART

AND

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS the Developer is the registered owner or holder of a Registered Right to Purchase Lands and premises situate, lying and being in the Regional District of Nanaimo, Province of British Columbia, and more particularly known and described as:

(legal description)

(hereinafter called the "Lands")

AND WHEREAS the Developer's engineer has certified that the Developer has attained substantial performance of the subdivision or development of the Lands, and a "Certification of Installed Works" has been received and accepted by the Regional District Engineer.

AND WHEREAS the Developer is desirous of entering into this Agreement with the Regional District pursuant to the provisions of the Land Use and Subdivision Bylaw to warrant the construction and installation of all works in order to obtain approval from the Approving Officer for the subdivision plan.

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

1. In this Agreement, unless the context otherwise requires all words and expressions must have the same meaning assigned to them as like word or expressions contained in the Interpretation section of the Land Use and Subdivision Bylaw of the Regional District.

2. The Developer covenants and agrees to warrant for a period commencing _____, 20__ and ending _____, 20__ the works or services described in paragraph 4 which were installed or constructed in connection with the subdivision of the Lands and as a requirement of the provisions of the Land Use and Subdivision Bylaw. For greater certainty, the expiry date of this Agreement shall be _____, 20__.
3. The Developer covenants and agrees that any defects or deficiencies in the works described in paragraph 4 of which the Regional District Engineer gives written notice to the Developer prior to the expiration of this Agreement will be repaired to the satisfaction of the Regional District Engineer within ten (10) working days after the date of written notification by the Regional District Engineer.
4. The Developer agrees that the works for which this Agreement applies are those works listed below and initialled by the Developer:

(Work to be listed C/W Drawing Numbers)

5. The cost of all work required to repair any defects or deficiencies identified pursuant to paragraph 3 shall be at the expense of the Developer. The Developer shall employ only bondable contractors to carry out and complete the work.
6. The Developer shall obtain and provide to the Regional District, upon request and free of charge, true copies of all contracts and sub-contracts entered into by the Developer or its contractors relating to the works.
7. The Regional District covenants and agrees to schedule with the Developer a site visit at least forty-five (45) days prior to the expiry date of this Agreement to inspect the works and determine what deficiencies or defects, if any, exist. Upon completion of the site visit the Regional District will notify the Developer, in writing, at least thirty (30) days prior to the expiry date of this Agreement what deficiencies or defects, if any, exist.
8. The decision of the Regional District Engineer shall be final and binding on all parties hereto in determining whether or not the work or any part thereof has been repaired and completed in accordance with the provisions of this Agreement.
9. The Developer agrees that if the required repairs, or any part thereof, are not completed in accordance with the provisions of this Agreement, the Regional District may draw funds from the security provided under paragraph 4 of this Agreement and attached hereto as Appendix "A" and the Regional District may complete the work at the expense of the Developer. The cost of the repair shall be deducted from security held by the Regional District and the balance of the security less any administration fees and costs incurred by the Regional District will be returned to the Developer at the date of expiration of this Agreement. If there is insufficient money on deposit with the Regional District by reason of the security deposit, then the Developer will pay such deficiency to the Regional District immediately upon receipt of an invoice from the Regional District. It is understood and agreed that the Regional District may do such work either by itself, or by contractors employed by the Regional District.

10. The Developer agrees that he shall submit registered copies of all statutory right-of-way plans and agreements, relating to the works set out in paragraph 4 if applicable, to the Regional District prior to the expiry date of this Agreement detailed in paragraph 2 and that the Regional District shall not be required to release the balance of the security, if any, until such time as the Regional District is in receipt of the required statutory right of way plans and agreements.
11. The Developer covenants and agrees, during the currency of this Agreement, to indemnify and save harmless the Regional District, its Board, officers, agents, and employees from and against all actions, proceedings, costs, damages, expenses, claims and demands whatsoever and by whomever brought or made against the Regional District or its Board, officers, agents and employees, resulting directly or indirectly from the construction, installation, or repair of the works and services set out in paragraph 4 provided such actions, proceedings, costs, damages, expenses, claims and demands do not directly or indirectly result from the omissions or negligent acts of the Regional District, its Board, officers, agents, employees or contractors or other persons for whom they are responsible in law.
12. In consideration of due and proper performance by the Developer of the covenants herein contained, the Regional District covenants and agrees to permit the Developer to carry out and perform the work.
13. Any demand or notice required or permitted to be given under the provisions of this Agreement must be in writing and may be given by mailing such notice by prepaid registered post to the party concerned at the address for such party first above recited, and any such notice or demand mailed as aforesaid shall be deemed to have been received by the party to whom it is addressed on the second business day after the date of posting thereof.
14. It is understood and agreed that the Regional District has made no representations, covenants, warranties, guarantees, promises, or agreements, oral or otherwise, with the Developer other than those contained in this contract.
15. 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 context or the parties so require.
16. This Agreement and the terms, covenants, and conditions herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at the Regional District of Nanaimo, Province of British Columbia, the ____ day of the _____, 20__.

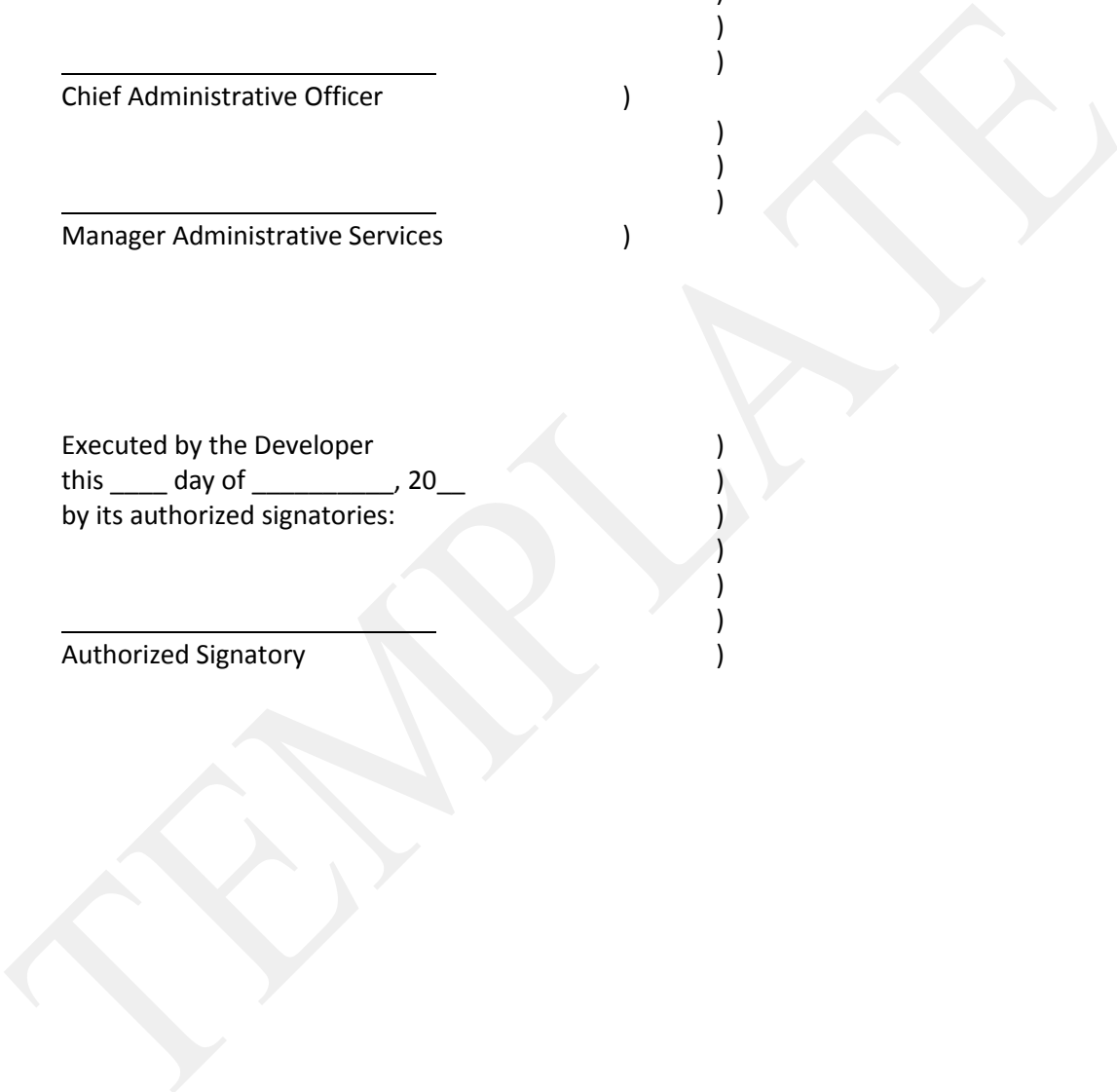
Executed by the)
REGIONAL DISTRICT OF NANAIMO)
By its authorized signatories:)
)
)
)
)

Chief Administrative Officer)
)
)
)

Manager Administrative Services)

Executed by the Developer)
this ____ day of _____, 20__)
by its authorized signatories:)
)
)
)
)

Authorized Signatory)



Appendix "A"

Attach letter of credit, photocopy of bank draft, or photocopy of cash receipt in the amount of
\$_____

TEMPLATE

MEMORANDUM OF UNDERSTANDING

APPENDIX 3

LATECOMER AGREEMENT

REGIONAL DISTRICT OF NANAIMO
LATECOMER AGREEMENT
(List the Name of Project here)

THIS AGREEMENT made the ____ day of _____, 20__
(hereinafter called the “*Agreement*”)

BETWEEN:

REGIONAL DISTRICT OF NANAIMO
6300 Hammod Bay Road
Nanaimo BC
V9T 6N2

(hereinafter called the “*Regional District*”)

OF THE FIRST PART

AND

(hereinafter called the “*Developer*”)

OF THE SECOND PART

WHEREAS:

- A. The Developer proposes to subdivide/develop certain lands within the Regional District more particularly described in Appendix “A” to this Agreement (the “Lands”) and will, in accordance with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500 be providing a _____ facility that will serve the Lands;
- B. The Regional District requires that the owner of the Lands provide extended/excess services with respect to a _____ system that will serve Lands other than the Lands (the “Extended Services”) pursuant to Section 939(2) of the *Local Government Act*;
- C. The Regional District considers that its costs to provide the Extended Services in whole or in part are excessive, and requires the Developer, as owner of the Lands, and the owners of any other parcels of land that, in the opinion of the Regional District, will benefit from the Extended Services, to pay the cost of the Extended Services;
- D. This Agreement is authorized and provided for under Section 939(5) of the *Local Government Act*; and
- E. The Board of the Regional District has by Bylaw No. 1019 set the rate of interest referred to in paragraph 7 hereof.

NOW, THEREFORE, THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements made by each of the parties to the other as set out herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Regional District and the Developer covenant and agree as follows:

1. **INTERPRETATION**

In this Agreement

“Building Permit” means a building permit issued by the Regional District for the purpose of developing the Lands.

“Complete” or “Completion” or any variation of these words when used with respect to the Extended Services means completion to the satisfaction of the General Manager of Regional and Community Utilities Services on the date certified by him in writing.

“Development” includes the construction, clean up and completion of all aspects of the Plan, or Building Permit.

“General Manager of Regional and Community Utilities” means a person appointed by the Regional District as such or any other person from time to time authorized to act in his stead by the Regional District.

“Manager of Water and Utility Services” means the person appointed by the Regional District as such, or any other person from time to time duly authorized to act in his stead by the Regional District or the General Manager of Regional and Community Utilities.

“Plan” means the Plan of Subdivision proposed for the Lands by the Developer and for which the Regional District requires the provision of Extended Services.

2. **PLANS**

The Developer shall provide the Extended Services in compliance with the plans and specifications set out in Appendix “B” hereto.

3. **LANDS SERVED**

The Regional District and Developer agree that the Extended Services will serve those lands shown on Appendix “C” hereto which are lands other than the Lands.

4. **COST**

The total cost of providing the Extended Services, as determined by the Regional District, that will benefit parcels of land other than the Lands is \$_____.

5. **LATECOMER CHARGE**

(a) The Regional District shall, under Section 939(5) of the *Local Government Act* impose a Latecomer Charge against each parcel of land that benefits from the Extended Services determined in accordance with its Latecomer Policy and as prescribed in Appendix “D” hereto as a condition of an owner using or connecting to the Extended Services provided under this Agreement. The Latecomer Charge shall be paid as a condition precedent to the connection to the Extended Services.

- (b) In the case of a phased development, the Latecomer Charges will be pro-rated and collected for each phase.
 - (c) In the case of a connection of a house on a parcel with a potential for higher density development, the Latecomer Charge will be pro-rated.
6. The Regional District shall pay to the Developer those charges, collected under paragraph 5, which relate to the costs of providing the Extended Service paid by the Developer.
7. Included in the charges imposed by paragraph 5 of this Agreement shall be interest calculated annually at the rate prescribed by Bylaw No. 1019, as amended from time to time, payable for the period commencing when the Extended Services were completed, as certified under paragraph 1, up to the date that the connection is made or the use commences.
8. No Latecomer Charges under paragraph 5 of this Agreement shall be charged beyond a period of ten (10) years commencing on the date of completion of the Extended Services as certified by the General Manager of Regional and Community Utilities.

9. **TIME FOR COMPLETION**

The Developer shall complete the Extended Services to the satisfaction of the General Manager of Regional and Community Utilities by the _____ day of _____, 20__ (hereinafter called the "Completion Date").

10. **BOND** (*choose only one alternative*)

(1) As security for the due and proper performance of all of the covenants and agreements contained in this Agreement and the Extended Services contemplated, the Developer has deposited with the Regional District cash or a certified cheque in the amount of \$_____ as a Bond within the meaning of Section 940 of the *Local Government Act* (the "Bond").

OR

(1) (a) As security for the due and proper performance of all of the covenants and agreements contained in this Agreement and the Development and Works contemplated, the Developer has deposited with the Regional District an Irrevocable Letter of Credit in the form attached to this Agreement as Appendix "E" in the amount of \$_____ (the "Bond") to be valid for a period from the date of this Agreement to twelve (12) months after the Completion Date.

(b) The Regional District may make demand on the Letter of Credit at any time after this date should the security be necessary to fulfill any of the obligations contained in this Agreement.

(c) The amount of the Bond may be reduced with the approval in writing of the Regional District evidenced by the signature of the General Manager of Regional and Community Utilities.

(2) The Developer agrees that if the Extended Services are not completed as required by paragraph 9, the Regional District may complete the Extended Services, at the cost of

the Developer, and for that purpose may draw upon the Bond to the extent of the full amount of the Bond.

- (3) If there are insufficient monies contained in the Bond the Developer shall pay the balance of the insufficiency forthwith upon demand by the Regional District.
- (4) The Regional District may complete the Extended Services either by itself or by contractors employed by it.
- (5) If the Developer completes the Extended Services or if the completion pursuant to paragraphs 2, 3, and 4 costs less than the amount of the Bond, then the Bond or a proportional part of it shall be returned by the Regional District to the Developer.
- (6) For the purposes of paragraph 5, the cost of the Extended Services should they be constructed or completed by the Regional District shall include the actual cost of construction, engineering, supervision, legal survey and any other costs, together with an administration fee of ten per cent (10%) of the total costs payable to the Regional District.

11. **RIGHTS-OF-WAY**

Upon completion of the Extended Services, the Developer shall transfer and register in the Land Title Office the dedications, easements and rights-of-way prescribed by Appendix "F" to the Regional District.

12. **STANDARDS OF WORKS**

- (1) The Extended Services shall be constructed to the standards required by Bylaw No. 500 of the Regional District and to the satisfaction of the Manager of Water and Utility Services.
- (2) If the Extended Services prove to be in any way defective or do not operate then the Developer shall, at the expense of the Developer, modify and reconstruct them so that they are fully operative and function to the satisfaction of the Manager of Water and Utility Services.
- (3) Upon completion of the Extended Services to the satisfaction of the Manager of Engineering Services, a Certificate of Completion signed by the General Manager of Regional and Community Utilities shall be issued.

13. **COMPLY WITH REGULATIONS**

- (1) The Developer shall comply with the provisions of all Regional District Bylaws throughout the construction of the Extended Services.
- (2) In the event that any material or debris should be left upon any road after the construction of the Extended Services, the Developer covenants and agrees that the Regional District may forthwith remove the material or debris at the expense of the Developer, and the cost of the removal shall be determined by the Manager of Water and Utility Services.
- (3) In the event that any invoice of the Regional District, for the removal of material or debris, remains unpaid after thirty (30) days of its receipt by the Developer, the Regional District may deduct the amount of the invoice from the Bond required by paragraph 10.

- (4) In the event that any damage is done to the adjacent properties or to any roads, municipal services or works or to any water course or drainage system, the Developer shall, within thirty (30) days of such damages, repair or replace or clean them up and upon failure to do so the Regional District will draw upon the Bond and do such repairs or replacement or clean up.

14. **DEVELOPER'S ENGINEER**

- (1) At all times during the construction of the Extended Services, the Developer shall keep and employ a professional engineer, registered in the Province of British Columbia, with the authority to act on behalf of the Developer.
- (2) Any explanations, orders, instructions, directions and requests given by the Regional District to the Developer's professional engineer shall be deemed to have been given to the Developer.

15. **CHANGES IN STANDARDS**

The Developer, under Section 942 of the *Local Government Act*, covenants and agrees to comply with any changes in subdivision requirements or standards established by bylaw or any other bylaw under Part 26 of the *Local Government Act* prior to the substantial commencement upon the Lands of the Extended Services, and further agrees that the changes shall affect the Plan, and the Extended Services.

16. **MAINTENANCE OF WORKS**

The Developer covenants and agrees to:

- (a) maintain the Extended Services in complete repair for a period of one year from Completion;
- (b) remedy any defects in the Extended Services appearing within a period of one year from the Completion Date and pay for any damage to other work or property resulting from the Development, save and except for defects caused by reasonable wear and tear, negligence of the Regional District, its servants or agents, acts of God, or vandalism proven to have been committed after the Completion Date;
- (c) deposit with the Regional District for a period of one year from Completion the sum of five per cent (5%) of the construction value of the Extended Services for which a Bond in the form required by paragraph 10 shall be security; and
- (d) if the Developer fails to maintain the Extended Services, remedy any defect or pay for any damage resulting from the Extended Services, the Regional District may deduct from the Bond the cost of completing all Extended Services, remedying any defect or paying for any damage from the Bond.

17. **DUTIES OF DEVELOPER**

The Developer covenants and agrees to:

- (a) submit to the Regional District final as-built drawings, including two sets of prints and one set of mylar transparencies and one AutoCAD file of the project in the latest version of all Extended Services as constructed and as approved by the Manager of Water and Utility Services.
- (b) pay all arrears of taxes outstanding against the Lands before the approval of the Plan;
- (c) pay all current taxes levied or to be levied on the Lands on the basis and in accordance with the assessment and collector's roll entire; and
- (d) pay to the Regional District, in addition to the Bonds required by paragraphs 10 and 16, all inspection fees, administration fees, engineering fees, non-refundable levies and charges, legal costs incurred by the Regional District directly attributable to this Agreement, and the cost of connecting all utilities to service the Development.

18. **INDEMNITY AND RELEASE**

- (1) The Developer covenants to save harmless and indemnify the Regional District against:
 - (a) all actions, proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the Development or construction of the Extended Services;
 - (b) all expenses and costs which may be incurred by reason of this Agreement resulting in damage to any property owned in whole or in part by the Regional District or which the Regional District by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain; and
 - (c) all expenses and costs which may be incurred by reason of liens, nonpayment of labour or materials, Workers' Compensation assessments, unemployment insurance, Federal and Provincial Tax, or union dues.
- (2) The Developer releases the Regional District from any and all liabilities, claims or demands whatsoever which the Developer may have against the Regional District arising from the inability of the Regional District to collect Latecomer Fees for any reason.

19. **REGIONAL DISTRICT DUTY**

The Regional District hereby covenants and agrees with the Developer to permit the Developer to construct the Extended Services upon the terms and conditions contained in this Agreement.

20. **CERTIFICATE OF ACCEPTANCE**

The Regional District agrees to provide the Developer with a Certificate of Acceptance of the Extended Services signed by the General Manager of Regional and Community Utilities upon satisfactory completion by the Developer of all of the covenants and conditions in this Agreement, including but not limited to, the maintenance of the Extended Services and keeping them in complete repair for a period of one year.

21. **WITHHOLD BUILDING PERMIT**

The Developer covenants and agrees that the Regional District may withhold the granting of a Building Permit for any building or part of a building to be constructed upon the Lands until the issuance of the Certificate of Completion referred to in paragraph 20.

22. **NO REPRESENTATIONS**

It is understood and agreed that this Agreement represents the only Agreement between the Developer and the Regional District and that no representations, covenants, warranties, guarantees, promises or agreements made before or after this Agreement have any force or effect.

23. **REGIONAL DISTRICT'S PROPERTY IN WORKS**

Upon issuance of the Certificate of Acceptance the Extended Services become the property of the Regional District, free and clear of any claim by the Developer or any person claiming through the Developer, and the Developer shall save harmless the Regional District from any claims and agrees that any claims may, at the option of the Regional District, be paid by and from the Bond.

24. **TERMINOLOGY**

Wherever the singular or the masculine are used in this Agreement, they shall be construed as meaning the plural or the feminine or body corporate or politic where the context or the parties require.

25. **BINDING EFFECT**

This Agreement shall enure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assignees.

26. **HEADINGS**

The headings in this Agreement are inserted for convenience only and shall not be construed as part of this Agreement for the purpose of interpretation.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at the Regional District of Nanaimo, Province of British Columbia, the ____ day of the _____, 20__.

Executed by the)

REGIONAL DISTRICT OF NANAIMO)

By its authorized signatories:)

)

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Chief Administrative Officer)

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Manager Administrative Services)

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Executed by the Developer)

this ____ day of _____, 20__)

by its authorized signatories:)

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Authorized Signatory)

Appendix "A"

THE LANDS TO BE SUBDIVIDED OR DEVELOPED

Appendix "B"

**PLANS AND SPECIFICATIONS OF THE EXTENDED SERVICES
SHOWING LOCATION AND DESCRIPTION**

Appendix "C"

**THE LANDS BENEFITING FROM THE SEWAGE EXTENDED SERVICE
OTHER THAN THE LANDS**

Appendix "D"

**LATECOMER CONNECTION CHARGE CALCULATION
SEWER EXTENDED SERVICE**

Appendix "E"

[BANK LETTERHEAD]

Letter of Credit No.	_____	Amount:	_____
Applicant	_____	Initial Expiry Date:	_____
	_____	Beneficiary:	_____

From the account of _____
(Name of Customer)
up to an aggregate amount of _____ available on demand.

Pursuant to the request of our customer, we hereby establish and give you a Standby Irrevocable Letter of Credit in your favour in the above amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon us by you, which demand we shall honour without enquiring whether you have the right as between yourself and the said customer to make such demand, and without recognizing any claim of our said customer, or objection by it to payment by us.

This Letter of Credit relates to those Regional District of Nanaimo services and financial obligations set out in an agreement between the customer and the Regional District of Nanaimo and briefly described as:

The amount of this Letter of Credit may be reduced from time to time as advised by notice in writing to us by the Regional District of Nanaimo.

Partial or full drawings may be made.

This Letter of Credit shall expire at 3:00 p.m. on _____. This Letter of Credit will continue in force for a period of one year, but shall be subject to the condition hereinafter set forth.

It is a condition of the Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing by registered mail, that we elect not to consider this Letter of Credit to be renewable for any additional period. This Letter of Credit is subject to the Uniform Custom and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500.

DATED at _____, British Columbia, this ____ day of _____, 20__.

_____	(Name of Bank)
_____	(Address of Bank)
_____	PER:
_____	(Authorized Signature)

Appendix "F"

DEDICATIONS, EASEMENTS AND RIGHTS OF WAY

MEMORANDUM OF UNDERSTANDING

APPENDIX 4

TRANSFER AGREEMENT

REGIONAL DISTRICT OF NANAIMO
WATER/SEWER/STREETLIGHTING TRANSFER AGREEMENT
(List the Name of Subdivision or Development here)

THIS AGREEMENT made the ____ day of _____, 20__
(hereinafter called the "Agreement")

BETWEEN:

REGIONAL DISTRICT OF NANAIMO
6300 Hammond Bay Road
Nanaimo BC
V9T 6N2

(hereinafter called the "Regional District")

OF THE FIRST PART

AND

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS:

- A. The Developer constructed and owns a water/sewer/streetlighting system servicing those parcels or tracts of lands and premises situate in the Regional District of Nanaimo, in the Province of British Columbia, being more particularly know and described as:

(legal description)

(the "Water System")
- B. The RDN may, by bylaw and pursuant to subsection 796(1) of the *Local Government Act*, establish and operate a service for the collection, conveyance and disposal of sewage and the supply, conveyance, storage and distribution of water;
- C. The RDN has the right, under subsection 176(1) of the *Local Government Act* to acquire real and personal property for the purposes of a service provided by the RDN;
- D. The Developer has agreed to transfer to the RDN the Works on the terms and conditions hereinafter appearing.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of **ONE DOLLAR (\$1.00)** and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the RDN and the Developer covenant and agree as follows:

1. **INTERPRETATION**

In this Agreement,

“Works” means that system of water/sewer/streetlighting works and all appurtenant pipes, conduits, lamps, fittings, valves and meters installed and constructed by the Developer and employed by or in connection with the Water/Sewer/Streetlighting System, and more particularly described in Appendix “A” to this Agreement.

2. **COMPLETION DATE**

The Completion Date shall be _____.

3. **TRANSFER OF INTEREST**

As of the Completion Date, The Developer hereby sells, assigns and transfers to the RDN all of its rights, title and interest in the Works.

4. **REPRESENTATIONS AND WARRANTIES**

The Developer represents and warrants to the RDN as follows, with the intent that the RDN shall rely on the representations and warranties in entering into this Agreement and in concluding the purchase and sale contemplated by this Agreement:

- a) The Developer is a corporation duly incorporated, validly existing and in good standing under the laws of British Columbia, and has the power and capacity to own and dispose of the Works and to enter into this Agreement and carry out its terms to the full extent;
- b) The execution and delivery of this Agreement and the completion of the transaction contemplated by this Agreement has been duly and validly authorized by all necessary corporate action on the part of the Developer, and this agreement constitutes a legal, valid and binding obligation of the Developer enforceable against the Developer in accordance with its terms;
- c) Neither the execution and delivery of this Agreement, nor the completion of the purchase and sale contemplated by this Agreement will give any person the right to terminate, cancel or remove the Works, or any part thereof;
- d) The Developer owns and possesses and has a good marketable title to the Works free and clear of all mortgages, liens, charges, pledges, security interests, encumbrances or other claims;
- e) The Developer has no indebtedness to any person, firm or corporation which might by operation of law or otherwise now or hereafter constitute a lien, charge or encumbrance upon any of the Works;

- f) There is no litigation or administrative or governmental proceeding or inquiry pending or to the knowledge of the Developer threatened against the Water/Sewer/Streetlighting System, or the Works or any part thereof, nor does the Developer know of or have reasonable grounds that there is any basis for such action, proceeding or inquiry.
- g) All governmental licenses, permits and certificates required for the construction of the Works have been obtained and are in good standing and the Developer is not in breach of any statute, bylaw, regulation, covenant, restriction, plan or permit;
- h) The Works are in good working order and are fit for the purposes intended, in particular, for the operation of a water/sewer/streetlighting system by the RDN. A copy of the "Certification of Installed Works" by _____ employed by the Developer is attached hereto as Appendix "B".

5. **INDEMNITY**

The Developer covenants to save harmless and indemnify the RDN from and against:

- a) Any indebtedness or liability to any person, firm or corporation which might by operation of law or otherwise now or hereafter constitute a lien, charge, mortgage, security interest or encumbrance upon any of the Works, save and except any such indebtedness or liability created or caused by the RDN; and
- b) Any and all actions, suits, proceedings, demands, assessments, judgments, costs and legal and other expenses arising out of or from the construction and ownership of the Water /Sewer/Streetlighting System by the Developer.

6. **SURVIVAL OF WARRANTIES**

All representations, warranties, covenants and agreements made by the Developer in this Agreement or under this Agreement shall, unless otherwise expressly stated, survive closing and any investigation at any time made by or on behalf of the RDN shall continue in full force and effect for the benefit of the RDN.

7. **FURTHER ASSURANCES**

The parties shall execute such further and other documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement.

8. **TERMINOLOGY**

Wherever the singular or the masculine are used in this Agreement, they shall be construed as meaning the plural or the feminine or body corporate or politic where the context of the parties require.

9. **BINDING EFFECT**

This Agreement shall enure to the benefit of and be binding on the parties hereto and their respective successors and permitted assigns.

10. **HEADINGS**

The headings in this Agreement are inserted for convenience only and shall not be construed as part of this Agreement for the purpose of interpretation.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at the Regional District of Nanaimo, Province of British Columbia, the ____ day of the _____, 20__.

Executed by the)
REGIONAL DISTRICT OF NANAIMO)
this ____ day of _____, 20__,)
by its authorized signatories:)
)
)
)
)
_____)
Chief Administrative Officer)
)
)
)

_____)
Manager of Administrative Services)
Executed by the Developer)
this ____ day of _____, 20__)
by its authorized signatories:)
)
)
)
_____)
)
)
)

Appendix "A"
SYSTEM OF WORKS

Appendix "B"

CERTIFICATION OF INSTALLED WORK

MEMORANDUM OF UNDERSTANDING

APPENDIX 5

FIRE HYDRANT USE PERMIT

FIRE HYDRANT USE PERMITTING (See Application Form following)

1. Applications for a connection are to be made using the “Fire Hydrant Use Permit” Application form included as part of this schedule.
2. Fire Hydrant use will be approved at the sole discretion of the RDN Manager of Water and Utility Services.
3. Fire Hydrant use permits will only be considered for works or activities being carried out within the permit application Water Service Area.
4. Fire Hydrant Use will not be granted for the purposes of water resale.
5. Fire Hydrant connections and disconnections will be made by RDN staff only.
6. Regional District of Nanaimo Staff will determine the allowable flow rate for each permitted use.
7. The Regional District of Nanaimo retains the right to disconnect any connection at any time.



FIRE HYDRANT USE PERMIT APPLICATION FORM

APPLICANT'S NAME: _____

MAILING ADDRESS: _____ Postal Code _____

TELEPHONE: _____ CELL: _____ FAX: _____ EMAIL: _____

- This application is for use of the fire hydrant located at _____
- Anticipated for the period _____ to _____
- For the following uses: _____
- Project Description: _____
- RDN Water Service Area: _____

I understand and agree to the following:

- Application fee is \$50.00
- Fire hydrant use fee/deposit in the amount of \$500.00.
- The fire hydrant may not be used until this Permit has been issued and the RDN staff have installed backflow prevention devices.
- Fire hydrant use is restricted to only the above-noted uses that have been accepted by the Manager.
- The Applicant may not leave the hydrant and associated equipment unattended.
- The permit may be revoked by the RDN at any time, where deemed necessary.
- On completion the RDN will inspect and maintain the hydrant as required, deduct a \$125.00 fee, any repair costs and water consumption fees from the \$500.00 deposit, and refund/invoice the balance to the Applicant.

SIGNATURE OF APPLICANT: _____ DATE: _____

Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement. The personal information is collected under the authority of the *Local Government Act* and RDN bylaws. If you have any questions about this collection, contact the Manager of Water and Utility Services at 6300 Hammond Bay Road in Nanaimo or by phone at 250-390-6560. Personal information or business information submitted on this form is not considered to be supplied in confidence.

Applicant's initials _____

Utilities Department Use Only Below This Line

↑ Permit Approved _____ Permit Denied for the following reasons: _____

_____ Date: _____ Hydrant # _____ Permit # _____

Manager of Water and Utility Services

Application Fee (a) \$50.00 (11-__-__-98-00)

Damage Deposit (b) \$500.00 (14-35-00-00-00)

Refund equals the Damage Deposit less,

Less RDN inspection/maintenance fee (\$125.00) (c) \$125.00 (11-__-__-98-00)

Less costs for any damages (d) \$ _____

Less water consumption at \$2.00/meter cubed

Consumption m3 _____ x \$2.00 = (e) \$ _____

Amount to refund or invoice (b minus c+d+e) \$ _____ (11-__-__-98-00)

Refund/Invoicing Approved by Manager of Water and Utility Services _____ Date: _____

MEMORANDUM OF UNDERSTANDING

APPENDIX 6

FIRE HYDRANT CERTIFICATION FORM



FIRE HYDRANT CERTIFICATION FORM

Hydrant Number: _____ Installation Date: _____ Area: _____

Hydrant Location: _____

Supplier: _____ Manufacturer: _____ Model: _____

Depth of bury: _____ Extension length (if applicable): _____

Isolation Valve Location: _____

Hydrant Colour: _____ System PSI: _____

Visible from street: Check = Yes

Easily accessible: Check = Yes

Obstructions: Check = No

Visible leakage: Check = No

Opens smooth: Check = Yes Number of turns: _____

Drains properly: Check = Yes

Paint OK: Check = Yes

Port Diameters:

Hose Nozzle: 77 mm (OD) 8 threads per 25 mm. Check = Yes

Pumper Nozzle: 117.5 mm (OD) 6 threads per 25 mm. Check = Yes

Contractor: _____

Comments: _____

Inspected by: _____ Date: _____

MEMORANDUM OF UNDERSTANDING

APPENDIX 7

APPROVED PRODUCTS LIST – PUBLIC WATER SYSTEMS

Regional District of Nanaimo - Approved Products List - Public Water Systems

Section	Product	Manufacturer	Model	Size	Comments
2.8	Pipe - Ductile Iron	Canada Pipe Cannon Stanton			
2.8	Pipe - PVC	Diamond Flexlox Ipex Northern Pipe Rehau	C900	4"-12"	Pipes to meet colour requirements of RDN
2.9	Ball Valve	Kits Red and White			
2.9	Detector Check Valve	Ames Febco Hersey Kennedy Watts Industries	10000CV 800DC EDC III B2 Series 07F	6"-10" 6"-10" 6"-10" 6"-10" 6"-10"	UL/FM UL/FM UL/FM UL/FM UL/FM
2.9	Bronze Compression Fittings	A.Y. McDonald Cambridge Brass Ford Jones Mueller	Q-Series Only H-Series Only Q-Fittings Only SG Fittings Only H-Series Only	3/4"-2" 3/4"-2"	Full Flow Only Full Flow Only Full Flow Only Full Flow Only Full Flow Only
2.9	Curb Stop	A.Y. McDonald Cambridge Brass Ford Jones Mueller	Q-Series Only H-Series Only Q-Fittings Only SG Fittings Only H-Series Only	3/4"-2" 3/4"-2"	Full Flow Only Full Flow Only Full Flow Only Full Flow Only Full Flow Only
2.9	Meter Box (Plastic)	Ametek-Plymouth Ametek-Plymouth Ametek-Plymouth Brooks Products	10-170-003 (extension) 10-171-001 (cover) 10-170-001 (box) 37	300x500 300x500 300x500 300x500	Only for use where approved Only for use where approved Only for use where approved
2.9	Pipe Saddles (For DI)	Robar Romac (Rockwell) Smith-Blair	 STYLE 313	4"-12" 4"-12" 4"-12"	

Section	Product	Manufacturer	Model	Size	Comments
2.9	Pipe Saddles (For PVC)	Canpac Mueller Robar Rockwell		4"-12" 4"-12" 4"-12" 4"-12"	
2.9	Service Pipe - Copper	Cerro Wolverine Tube	Type K Soft Type K Soft		
2.9	Water Meters	Schlumberger (Neptune) Sensus		5/8"-3/4"	Domestic DIRECT READ Meters Only
2.9	Pipe - Copper	(None Listed)			
2.9	Service Box (Concrete)	Brooks Products Brooks Products	37 66	300x500 425x750	
2.10	Hydrants	AVK Mueller	2780 Super Centurion 250		See below for Paint Colour See below for Paint Colour
2.11	Valves - Butterfly	Dezuirk Pratt Pratt	AWWA HP250 (250 PSI) Groundhog (150 PSI)	4"-12" 4"-12" 4"-12"	Complete with LA-Series operator
2.11	Valves - Gate	Mueller Jenkins	A-2380 Bronze Seat	2"-12" 2"-12"	
2.11	Valves - Resilient Wedge	AVK Clow Mueller	Series 25 Model 2630 A-2360	2"-12" 4"-12" 4"-12"	Stainless Steel Stem UL/FM UL/FM
2.11	Valves - Box	Alfs Castings Terminal City Terminal City	D7 (Nelson Type) Nelson Type MR Style (Robar)		For use outside of paved areas For use outside of paved areas Paved Areas c/w Parsons Lid
2.11	Air Valves	Apco Crispin GA Industries Terminal City Valmatic	143-C 945 201C		
2.12	Repair Coupling	Robar Rockwell Romac Smith-Blair		4"-12" 4"-12" 4"-12" 4"-12"	

Section	Product	Manufacturer	Model	Size	Comments
2.12 2.12	Silent Check Valve Pressure Reducing Valves	Valmatic Clayton Valve (CLA-VAL CO.) Singer Valve		4"-12" 4"-12"	
2.12	Fittings - Cast Iron	Metalfit Norwood Foundary Sigma Corporation Terminal City		4"-12" 4"-12" 4"-12" 4"-12"	Cement mortar lined only. Cement mortar lined only. Cement mortar lined only. Cement mortar lined only.
2.12	Fittings - Ductile Iron	Bibby/Acs Sigma Corporation Terminal City		4"-12" 4"-12" 4"-12"	Imported fittings-CHINA A-1 only
2.12	Pressure Gauges	Ametek - Plymouth Clayton Marsh			
2.12	Strainers	BCA			Approvals on a per project basis.
2.12	Flange Adaptor	EBAA Iron EBAA Iron EBAA Iron Uni-Flange	Series 2100 Megaflange Megaflange Series 1000 E-Z flange Series 400	3"-12" 3"-10" 3"-10" 3"-8"	Ductile iron pipe only (UL) Ductile iron pipe only (UL/FM) Ductile iron pipe only (UL/FM) Ductile iron pipe only (FM)
2.12	Repair Clamps	Mueller Romac	530 SS2	4"-12" 4"-12"	Two Section Clamp Two Section Clamp
2.12	Thrust Restraint - Ductile Iron (Wedge-Action)	EBAA Iron Sigma Uni-Flange Uni-Flange	Series 1100 Mega-Lug One Lok Series 1300C Series 1400D/1450D	3"-12" 4"-12" 4"-12" 4"-12"	Ductile Iron Pipe (UL/FM) Ductile Iron Pipe (UL/FM) Ductile Iron Pipe (UL/FM) Ductile Iron Pipe (UL/FM)
2.12	Thrust Restraint (PVC)	EBAA Iron EBAA Iron EBAA Iron Romac Sigma Uni-Flange Uni-Flange Uni-Flange	Series 2000 Series 1500PF Series 1600 600 Series PV - Lok; PVP Series Series 1350 Series 1390 Series 1300		For Class 150 PVC pipe (UL/FM) For Class 150 PVC pipe (FM) For Class 150 PVC pipe (FM) PVC (UM/FM) PVC Pipe (FM) For Class 150 PVC pipe (FM) For Class 150 or 200 PVC pipe only (FM) For Class 150 or 200 PVC pipe only (FM)

Section	Product	Manufacturer	Model	Size	Comments
2.12	Sump Drainer	BCA	A174		
2.12	Manhole Cover and Frames - Heavy Duty	Alfs Castings Dobney Foundary TR Castings	C18 C18		
2.12	Manhole Cover and Frames - Utility Chamber	Alfs Castings Dobney Foundary Sigma Corporation TR Castings	C-22 C-22		
3.4	Concrete	Bedrock Concrete Mayco-Mix Ocean Construction			
3.5	Gravel - Bedding Type 2	Hub City Paving Lussier and Son			
3.5	Gravel - Base	Haylock Bros. Paving Ltd Hazelwood Construction Hub City Paving Lussier and Son	Alberni Highway Pit Timberlands Pit	25mm	Blended with Rap <10%
3.5	Manhole Sections	Lombard Precast Ocean Construction			
3.5	Manhole Steps	Lombard Precast Ocean Construction			
3.5	Manhole Tops	Lombard Precast Ocean Construction			
3.6	Gravel - Imported Granular	Hub City Paving Lussier and Son			
3.6	Concrete - Controlled Density Fill	Bedrock Concrete			