



The Village of
PORT CLEMENTS
"Gateway to the Wilderness"

36 Cedar Avenue West
PO Box 198
Port Clements, BC
V0T1R0
OFFICE: 250-557-4295
Public Works: 250-557-4295
FAX: 250-557-4568
Email: office@portclements.ca
Web: www.portclements.ca

7:00 p.m. Regular Meeting of Council Tuesday, September 5th, 2017

AGENDA

1. **ADOPT AGENDA**
2. **PETITIONS, DELEGATIONS & OPENING OF SEALED TENDERS**
3. **MINUTES**
M-1 – August 21st, 2017 Council Meeting Minutes
4. **BUSINESS ARISING FROM THE MINUTES & UNFINISHED BUSINESS**
UB-1 – BCTS Haida Gwaii Replacement FSP – BC Timber Sales
UB-2 – Crown Grant Offer – RTC by Kim Mushynsky
5. **ORIGINAL CORRESPONDENCE**
C-1 – Trail Maintenance – Marilyn Bliss
C-2 – Response letter from Assistant Deputy Minister of FLNRO Chris Stagg
6. **GOVERNMENT**
7. **FINANCE**
F-1 – Cheque Listing August 17th –30th, 2017
8. **NEW BUSINESS**
9. **REPORTS & DISCUSSIONS**
R-1 – Rainbow Wharf – Kim Mushynsky
R-2 - Dog Bylaw Enforcement – Ruby Decock
10. **ACTION ITEMS**
11. **QUESTIONS FROM THE PUBLIC & PRESS**
12. **ADJOURNMENT**



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Minutes of the regular meeting of the Port Clements Council held August 21, 2017 in Council Chambers.

4 members of the public attended

Present:

Mayor Thomas
Councilor Stewart
Councilor Daugert
Councilor Cumming

CAO Kim Mushynsky
Public Works Superintendent Sean O'Donoghue

Mayor Thomas called the meeting to order at 7:00 p.m.

1. ADOPT AGENDA.

2017-216 – Moved by Councilor Stewart, seconded by Councilor Cumming
THAT Council adopts the agenda with the addition of a review of the bids for the stair replacement.
CARRIED

2. PETITIONS, DELEGATIONS & OPENING OF SEALED TENDERS.

There were 4 bids received for the replacement of the Fire Hall stairway. Martin's Construction \$1,750, J&J Contracting \$3,453, Roeland Denooij \$3,750, Sharoon Services \$5,544.

2017-217 – Moved by Councilor Cumming, seconded by Councilor Stewart
THAT Council declare that Roeland Denooij as the successful contractor for this job.
CARRIED

3. MINUTES.

M-1 – August 8, 2017 Regular Council meeting minutes
2017-218 - Moved by Councilor Daugert, seconded by Councilor Stewart
THAT Council adopts the August 8, 2017 Council Meeting minutes with one typo correction.
CARRIED

4. BUSINESS ARISING FROM THE MINUTES & UNFINISHED BUSINESS.

UB-1 – Park Lane Drainage
Public Works Superintendent Sean O'Donoghue gave a verbal report on the specific situation at Park Lane and then on the general situation of ditches within Port Clements and on the plan to create a 5 year revolving ditch regular ditch maintenance schedule beginning with 2017.
2017-219 – Moved by Councilor Daugert, seconded by Councilor Cumming
THAT Council accepts the Public Work's verbal report on ditching and drainage in Port Clements.
CARRIED

5. ORIGINAL CORRESPONDENCE

6. GOVERNMENT

G-1 – Bylaw 443, 2017 Amended Financial Plan 2017-2021

2017-220– Moved by Councilor Cumming, seconded by Councilor Daugert

THAT Council reconsiders and adopts Bylaw 443, 2017 the Amended Financial Plan for 2017-2021

CARRIED

G-2 – Ditch Infill Policy #9

2017-221 – Moved by Councilor Daugert, seconded by Councilor Stewart

THAT Council receives this policy.

CARRIED

2017-222 – Moved by Councilor Daugert, seconded by Councilor Stewart

THAT Council adopts the updated Ditch Infill Policy #9 with some minor typographical corrections.

CARRIED

G-3 – Bylaw 442, 2017 Zoning Amendment Bylaw

2017-223 – Moved by Councilor Stewart, seconded by Councilor Daugert

THAT Council does 1st and 2nd reading of Bylaw #442, 2017 Zoning Amendment.

CARRIED

G-4 – Appointment of Delegate and Alternate for the Municipal Insurance Association of BC

2017-224 – Moved by Councilor Cumming, seconded by Councilor Daugert

THAT Council appoints Councilor Stewart as the Delegate and Councilor Daugert as the Alternate for 2017 for the Municipal Association of BC.

CARRIED

7. FINANCE

F-1 – Cheque Listing August 4 - 16, 2017

2017-225 – Moved by Councilor Cumming, seconded by Councilor Stewart

THAT Council receives the cheque listing to August 16, 2017.

CARRIED

F-2 – July 2017 NSCU statement

2017-226 – Moved by Councilor Daugert, seconded by Councilor Cumming

THAT Council receives the July 2017 NSCU statement.

CARRIED

F-3 – July 2017 CIBC statement

2017-227 – Moved by Councilor Stewart, seconded by Councilor Daugert

THAT Council receives the July 2017 CIBC statement

CARRIED

8. NEW BUSINESS

9. REPORTS & DISCUSSIONS

Mayor Thomas – NCRD, RBA & NW Hospital mtgs. Mtg. with Nathan Cullen

Councilor Daugert – Trap shoot at Rod & Gun Club very successful

Councilor Stewart – Emergency Evacuation training, mtg. with Nathan Cullen, kudos to Ruby Decock re Sunset Park work re: complements from campers recently staying there.

Councilor Cumming – Emergency Evacuation training, report on damage to trail by vehicle

CAO Mushynsky – Emergency Evacuation training.

Public Works Superintendent O'Donoghue – pothole work, biomass fuel decision needed before end of October, swabbing south Bayview Wednesday at 7:30pm.

10. ACTION ITEMS

A-1 – See attached Action Items List

11. QUESTIONS FROM THE PUBLIC & PRESS

Could Council consider funding for the painting of the fire hall and St. Mark's either this year or next year?

ADJOURNMENT

2017-228 Moved by Councilor Stewart

THAT the meeting be adjourned at 8:05 pm.

Urs Thomas
Mayor

Kim Mushynsky
Chief Administrative Officer



File: 18046-30/FSP-DHG

July 31, 2017

Mayor and Council
The Village of Port Clements
36 Cedar Avenue West
PO Box 198
Port Clements, BC, V0T 1R0
deputy@portclements.ca

VIA EMAIL

Re: Initiation of Public Review and Comment for BCTS Haida Gwaii Replacement FSP

Dear Mayor and Council,

Please consider this letter as notice that BCTS has completed a replacement FSP for the Haida Gwaii Natural Resource District. The draft FSP document is being circulated to applicable stakeholders for review and comment. This referral is being sent because BCTS is aware that your organization has an interest in the area to which the plan applies.

The review and comment period for our draft FSP is open through to September 29th, 2017. As such, we are requesting any comments or questions regarding our draft FSP prior to submittal to the District Manager for approval.

To view a hard copy of the FSP document and maps, or to submit comments via regular mail:

Alexandra Ryland, RPF
Practices Forester
BC Timber Sales - Chinook Business Area - Haida Gwaii Field Team
Haida Gwaii Natural Resource District
1229 Oceanview Drive
PO Box 39
Queen Charlotte, BC, V0T 1S0

Digital versions of the FSP document and maps can be downloaded from:
<https://www.for.gov.bc.ca/BCTS/areas/TCH/FSP-DHG.htm>

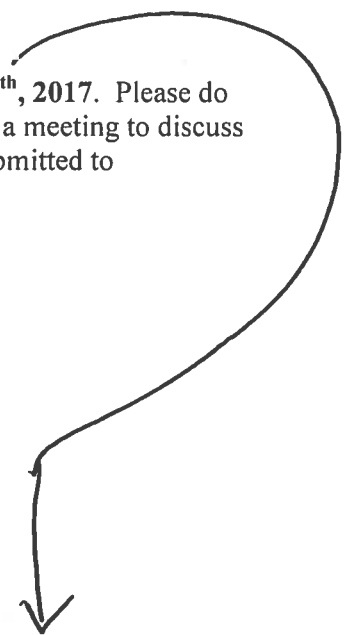
UB-1

Please provide any comments regarding the draft FSP by **September 29th, 2017**. Please do not hesitate to call me at (250) 559-6255 with any questions or to set up a meeting to discuss the draft FSP content in detail. Comments and questions can also be submitted to BCTS.HaidaGwaii@gov.bc.ca.

Thank you kindly,



Alexandra Ryland, RPF
Practices Forester
BC Timber Sales
Chinook Business Area



Comment closing
date has been amended
to October 29, 2017.



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REPORT TO COUNCIL

Author: Kim Mushynsky
Date: July 20, 2017
Re: Crown Grant Offer

Background: In 2011, at the conclusion of the Land Use Planning, the Province offered each of the Municipalities \$250,000 in Crown land to acknowledge concessions made. In 2013 the Village of Port Clements went through the process of obtaining ownership of some crown land in the Industrial Park now known as #100 Industrial Park Road. The appraised value that the Province used for this property came to \$88,000 leaving us \$162,000 in available Crown Land. In late 2014 I began the process of obtaining ownership over another piece of property in the Industrial Park. The process is very lengthy and there were some issues because the initial piece of land requested exceeded the \$162,000 value we had left so we had to decrease the lot size and re-apply. The value for timber was fairly high at the time this was going back and forth and the main issue for the lot was the timber value so eventually Council made a decision to seek ownership of the land but leave the timber rights to the Province. Per the attached, the Province is now making us an offer of the lot we applied for with a value of \$81,600. Once we finalize this transaction we will have \$80,400 left to use towards another piece of Crown land that Council identifies. The cost to the Municipality to finalize this Crown Land offer will be the cost to acquire and register a survey of the lot being obtained.

Recommendation: I recommend Council authorize me to sign the Crown Grant Offer and hire Dediluke to complete the survey as required to finalize this land transaction.

Respectfully submitted:



Ministry of Forests, Lands and
Natural Resource Operations
1229 Oceanview Drive; P.O. Box 39
Queen Charlotte City, BC V0T 1S0
Telephone No: 250 559-6200
Facsimile No: 250 553-8342

GST Registration No: R107864738

Your contact is: Elizabeth DeMunck

Our file: 1414012

CROWN GRANT OFFER

July 15, 2017

CORPORATION OF THE VILLAGE OF PORT CLEMENTS
Po Box 198
Port Clements, BC V0T 1R0

Dear Sir or Madam:

Re: Your Application for a Crown grant

We are pleased to offer you a Crown grant over:

that portion of District Lot 997, within Queen Charlotte District, shown outlined
on the attached sketch, containing 5.44 hectares, more or less.

(the "Land") on the terms and conditions contained in this offer.

Preconditions of Crown grant

You can accept this offer by signing the attached acceptance page and returning it to
our office. A Crown grant will be issued to the Registrar of the appropriate Land Title
Office once you have met the preconditions listed below. The Registrar will then
register a title to the Land in your name.

This offer will expire on January 15, 2018 unless you have returned the signed
acceptance page by this date. As well, you must satisfy the following preconditions by
this date or within the time period specified in the precondition:

1 FEES PAYABLE

The purchase price for the Land shall be \$1.00.

The total value of the land is \$81,600.00 towards the Ministry's land bank
commitment to Haida Gwaii Communities.

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2 SURVEY

You need to retain a registered BC Land Surveyor to prepare a boundary survey of the Land, at your expense. The surveyor is responsible for completing the survey, which must be delivered to the Surveyor General within 6 months from the date you accept our offer.

3 PROPERTY TRANSFER TAX ACT

When Crown land is sold, tax under the *Property Transfer Tax Act* becomes due. This tax is based on the fair market value of the property, being the value of the land plus the value of any buildings and other improvements (and the timber) on the land, as of the date of the registration of the Crown grant at the Land Title Office.

If this Ministry will be registering the Crown grant for you, the Property Taxation Branch of the Ministry of Finance will contact you after registration about completion of a tax return and payment of the tax, or alternately, about your claim for tax exemption. If your lawyer will be registering the Crown grant at the Land Title Office for you, you will have to file a tax return at that time.

For more information about this tax, please contact Leslie Guthrie at the Property Taxation Branch, Ministry of Finance at (250) 356-9268. Further information can also be found in Information Bulletin 018 – Application of the Act to the Sales of Crown Land, at the following website address.

http://www.sbr.gov.bc.ca/documents_library/bulletins/PTT_018.pdf

REMINDER

This offer expires if you do not satisfy the above preconditions by January 15, 2018 or within the time period specified in the precondition.

AGREEMENT TO FURTHER TERMS

1 By accepting this offer, you agree that:

- (a) This offer cannot be transferred to another person;
- (b) This offer and the Crown grant do not guarantee that
 - (i) the Land can be built on,
 - (ii) there is access to it,
 - (iii) it is not susceptible to flooding or erosion;

- (iv) the Land and its surface water and groundwater are free from any environmental or other contaminant, including any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land, whether naturally occurring or introduced, or that neighbouring or adjacent lands are free from any such substances;
- (c) This offer shall survive the signing and issuance of the Crown grant but that if there is any contradiction between the terms of the offer and the Crown grant, the Crown grant shall prevail;
- (d) This offer does not give you any right to use or occupy the Land for any purpose.
- (e) In accordance with the provisions of the *Land Act*, this offer is not binding upon the Crown until the Crown grant is signed by the Crown.
- (f) Time is of the essence in this offer;
- (g) You are taking the Land "as is"; and
- (h) You will, from and after the date the Crown Grant is signed by the Crown
 - (i) assume any environmental liabilities relating to the Land including, but not limited to, all liability for clean-up of any toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Land or migrating from the Land (including surface water and groundwater),
 - (ii) indemnify and save harmless the Crown from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by it arising out of or in connection with any environmental liabilities relating to the Land including, but not limited to any contamination or other toxic, hazardous, dangerous or potentially dangerous substances migrating from the Land,
 - (iii) release the Crown from and against all claims, demands, liabilities, losses, damages, costs, actions, causes of action, suits and proceedings by you with respect to all environmental liabilities relating to the Land, including but not limited to any contamination or other toxic, hazardous, dangerous or potentially dangerous substances migrating from the Land.

2 By accepting this offer, you confirm that:

- (a) You (or your authorized representative) have inspected the Land and have satisfied yourself as to its condition, environmental or otherwise, including surface and groundwater, the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land and on or under any surrounding or neighbouring land and the current and past uses of the Land;
- (b) You have knowledge of all municipal and regional district bylaws regulating the use and development of the Land;
- (c) You acknowledge that you have no right to use or occupy the Land unless and until the Crown grant is issued to you under this offer.
- (d) You are aware of the need to obtain a **License to Cut** from the Ministry of Forests, Lands and Natural Resource Operations before harvesting, clearing, cutting, burning, or selling ANY merchantable or non-merchantable timber that is present on the Land.

3 PRIOR INTERESTS

The transfer of the Land will be subject to:

- (a) Any condition or final water license or substituted water license issued or given under *Water Sustainability Act* or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Land and to maintain, repair and operate any works permitted on the Land under the license at the date of the Crown grant.
- (b) All subsisting grants to, or subsisting rights of any person made or acquired under the *Mineral Tenure Act*, *Coal Act* or *Petroleum and Natural Gas Act* or under any prior or subsequent enactment of the Province of British Columbia of like effect.

4 EXCEPTIONS AND RESERVATIONS

The Crown grant transferring the Land to you will:

- (a) Except and reserve to the Province, its successors and assigns, the interests, rights, privileges and titles referred to in Section 50 of the *Land Act*.
- (b) Except and reserve to the Province all timber on the Land.

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ADDITIONAL INFORMATION

We wish to draw your attention to the following:

- (a) Should your proposed activities involve working in or around water, you need to refer to the Fishers and Oceans Canada website for requirements under the *Fisheries Act*.
- (b) Our records indicate that the Crown grant area overlaps, or is in the vicinity of a registered archaeological site. You may be required to obtain a Site Alteration Permit from the Ministry of Forests, Lands and Natural Resource Operations, Archaeology Branch prior to the commencement of land-altering activities.
- (c) In consideration of your project's environmental impact, please refer to the document "Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia" (Ministry of Environment, 2013)

Should a substantial portion of the timber be removed from the property under a License to Cut, you may wish to consider applying for a supplementary grant of the timber rights under Section 49 of the *Land Act*.

FREEDOM OF INFORMATION

Personal information is collected pursuant to the *Land Act* for the purpose of administering Crown land. Information on your application, and if approved, subsequent disposition will become a part of the Crown Land Registry, which is routinely made available to the public under freedom of information legislation.

If you have any questions please contact Elizabeth DeMunck.

Yours truly,



Leonard Munt
Delegated Decision Maker

Attachment

Acceptance of Offer of Crown Grant

File No. 1414012

Ministry of Forests, Lands and Natural Resource Operations
1229 Oceanview Drive
P.O. Box 39
Queen Charlotte City, BC V0T 1S0

Dear Elizabeth DeMunck:

Re: Application Crown grant

- ☐ I/We accept the offer of Crown grant made to me/us by way of a letter dated July 15, 2017 from the Ministry of Forests, Lands and Natural Resource Operations and I/we agree to perform and abide by my/our covenants, acknowledgements and representations set out in that offer.
- ☐ I/We do not accept the offer of Crown grant made to me/us by way of a letter dated July 15, 2017 from the Ministry of Forests, Lands and Natural Resource Operations.

DATED the ____ of _____, ____.

Applicant's signature/Applicant's
representative's signature

Applicant's signature/Applicant's
representative's signature

Print name of person signing

Print name of person signing

Occupation

Occupation

Please check one if applicable (more than one Applicant)

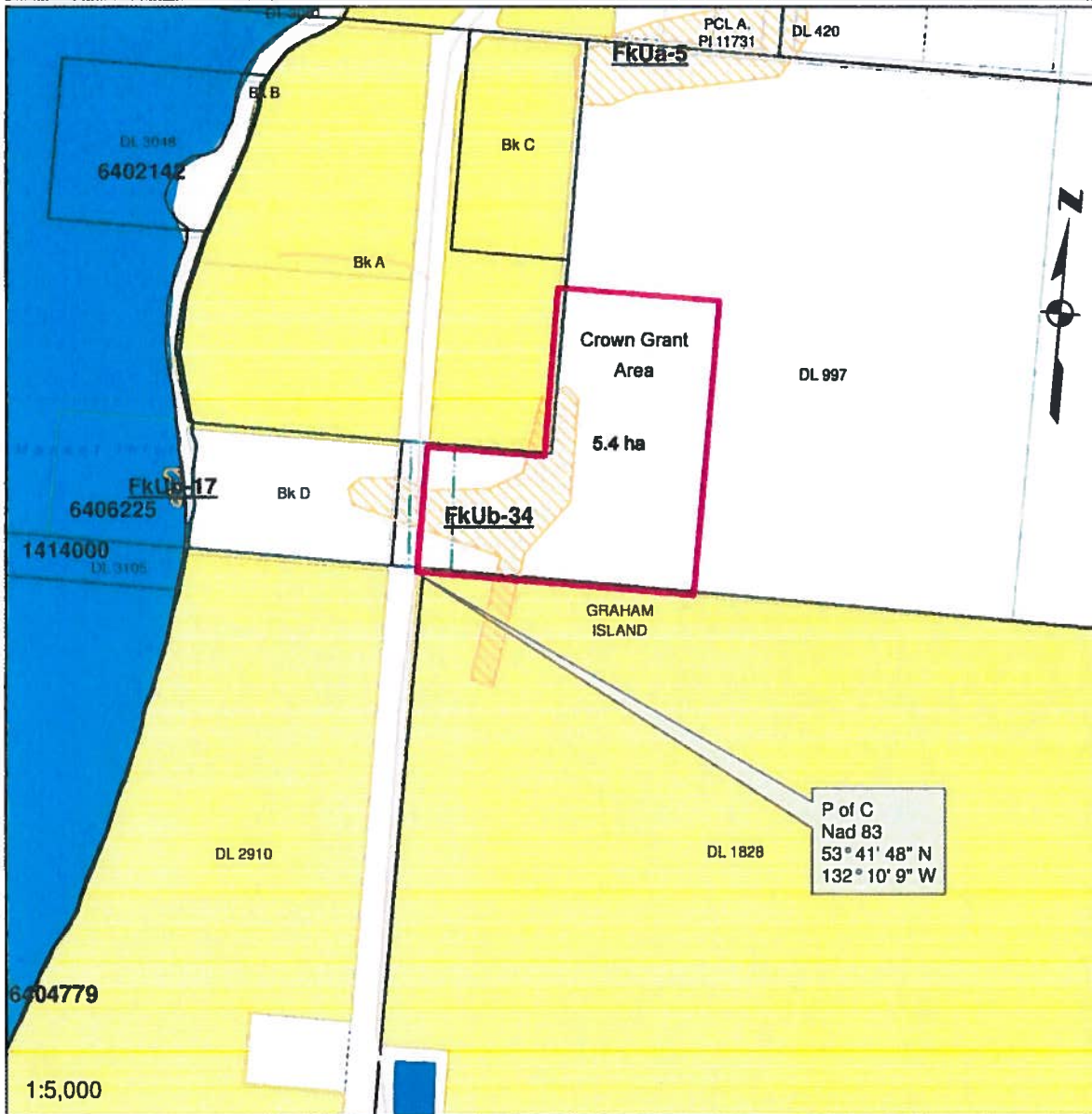
- ☐ Joint Tenants
☐ Tenants in Common

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Legal Description Schedule

Document Number: 915963
Lands File: 1414012

That portion of District Lot 997, within Queen Charlotte District, shown outlined on the Sketch below, containing 5.44 hectares, more or less.



Council of the
Haida Nation



Ministry of
Forests, Lands and
Natural Resource Operations

Approved
Document Print

Haida Gwaii Natural Resource District

Lands File Tenure Map

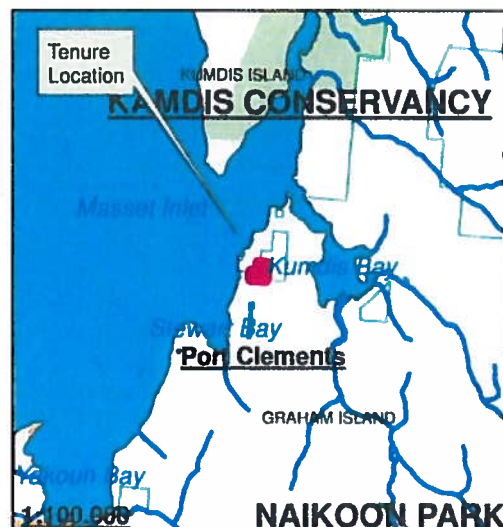
1414012 Application for Crown Grant

Date: July 11, 2014 Prepared By: DMLouis, HGRD

Legend

- | | | |
|-----------------------|----------------------|------------------------|
| 1414012 | Lakes and Ponds | Private Land |
| Tenures | Rivers and Creeks | Provincial Parks |
| BC Ferries Route | North Coast Ocean BC | Ecological Reserves |
| Yellowhead Highway 16 | Inundated Land | Conservancy Areas |
| Active Forest Road | Marsh | Protected Marine Areas |
| Pending Forest Road | Swamp | Indian Reserves |
| Retired Forest Road | | Forest Rec Site |

0 0.05 0.1 0.2 0.3 0.4 Kilometers



UB-2

DEDILUKE LAND SURVEYING INC.

PROFESSIONAL LAND SURVEYING

(#1- 170 WALLACE STREET)
P.O. BOX 2300
NANAIMO, B.C., V9T 6X6
Phone: 250 716-1415
Fax: 250 716-1439
island@dediluke.ca

4801 KEITH AVENUE
TERRACE, B.C.
V8G 1K6
Phone: 250 638-1449
Fax: 250 638-1442
survey@dediluke.ca

File:E 1135/17

Village of Port Clements
Box 198
Port Clements, BC
V0T 1R0

August 8, 2017
via email

Attention: Kim Mushynsky

Re: Survey Estimate, District Lot 997

Thank you for the opportunity to submit an estimate to provide professional land surveying services for your proposed legal survey for a Crown Grant area within District Lot 997, Queen Charlotte District as outlined in your email of July 21, 2017.

This job involves undertaking a Land Act survey to define the lands that will be crown granted. All the boundaries of the new parcel will be cut out, blazed and flagged with the exclusion of the boundary along the road. This requires approximately 1000m of line cutting. Additionally the NE corner of District Lot 1828 must be surveyed which lies approximately 1100m East of the road in order to establish the South boundary of the new parcel. Once completed the boundaries and corner posts will be well marked and easily found.

Attached is an estimate, with a breakdown of the expected cost for the provision of these services at representative rates. Although we are basing this estimate on our experience and realistic expectations, there are unknown factors such as key legal survey posts found destroyed. Therefore this cannot be considered a fixed price estimate. Billing will be based upon actual time spent on the project, in conjunction with our rate schedule, plus any disbursements and fees. Travel costs to Haida Gwaii will be pro rated with other jobs Dediluke Land Surveying completes at the same time.

The estimate includes preparing a legal survey plan of the proposed lot for registration as per the requirements of the Province and includes \$500 allocated to the registration and check list fees.

Dediluke Land Surveying Inc is willing to work with our clients, or others, on this project to maximize efficiencies and reduce duplication.

For your information, Dediluke Land Surveying Inc. follows a comprehensive safety program that protects both our people and our clients. If you have any questions please let us know.

Yours truly,
Dediluke Land Surveying Inc.

Dave Duddy

UB-2

DEDILUKE LAND SURVEYING INC.

PROFESSIONAL LAND SURVEYING

Time EstimateField

Pro Rated Travel	1.5 crew days
Set Control, Ties, Search for Evidence	1 crew days
Cutting and Blazing of Boundaries	4 crew days
Posting	1 <u>crew days</u>
Total Field	7.5 crew days

Office

Plan and records research, liason, calculations, report preparation and checking, supervision, data management, etc.	4 days
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Cost EstimateField Work

Survey Tech 1	60 hrs @	\$75 /hr	\$4,500
Survey Tech 2	0 hrs @	\$85 /hr	\$0
Survey Tech 3	0 hrs @	\$95 /hr	\$0
Senior Tech	60 hrs @	\$105 /hr	\$6,300
B.C. Land Surveyor	24 hrs @	\$147 /hr	\$3,528
Senior B.C. Land Surveyor	0 hrs @	\$175 /hr	\$0
Equiped 4x4 "heavy duty" truck	7.5 days @	\$140 /day	\$1,050
Chainsaws (extensive use)	0 days @	\$35 /day	\$0
Total Station	6 days @	\$92 /day	\$552
Static Precise GNSS (GPS) 0 receivers for	0 days @	\$150 /day/receiver	\$0
Real-time Precise GNSS (GPS)	1 days @	\$520 /day	\$520
Leica TS 12 Robotic Total Station	0 days @	\$188 /day	\$0
First Order Digital Level	0 days @	\$50 /day	\$0
Rock Drill	0 days @	\$40 /day	\$0

Office Work

B.C. Land Surveyor	8 hrs @	\$147 /hr	\$1,176
Survey Tech 3	0 hrs @	\$95 /hr	\$0
Senior Tech	24 hrs @	\$100 /hr	\$2,400

Materiel and Disbursements

Iron Posts	0 posts @	\$11 each	\$0
Capped Posts	3 posts @	\$39 each	\$117
1.5m Angle Iron Reference Posts	5 posts @	\$23 each	\$115
Cedar Reference Posts	3 posts @	\$10 each	\$30
Bronze Rock Posts	0 posts @	\$20 each	\$0
Accommodation 1 people for	2 days @	\$120 /day approx	\$240
Per Diem Meals 1 people for	2 days @	\$60 /day	\$120
(bfst \$15/lun\$17/din\$28			
Accommodation 2 people for	6 days @	\$120 /day approx	\$1,440
Per Diem Meals 2 people for	6 days @	\$60 /day	\$720
(bfst \$15/lun\$17/din\$28			
Pro Rated Travel Cost			\$625
Registration Fees			\$500

Maximum Expected Total = \$23,933

UB-2

August 28, 2017

To Mayor and council.

Re: Lou's bench.

I now have Lou's memorial bench placed on the new trail on the south side of my property. I invite you to take a walk and/or run on this new trail of ours. If you were to let me know perhaps we could have a glass of wine.

On a side note – the trail is less than one year old and is quickly filling in with weeds and the grasses are becoming 2 ½ to 3 feet tall. Do we have a maintenance plan in place? This trail is very popular and appearances gives good energy.

Thanks,

A handwritten signature in cursive script that reads "M. Bliss".

Marilyn Bliss



Reference: 230406

August 23, 2017

Via Email: urs.thomas@portclements.ca

His Worship Mayor Urs Thomas
Village of Port Clements
2 Grouse Street
Port Clements, British Columbia
V0T 1R0

Dear Mayor Thomas:

Thank you for your letter of July 25, 2017, to Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development, concerning the availability of timber sales for local contractors on Haida Gwaii. I have been asked to respond.

BC Timber Sales (BCTS) is also deeply concerned that there have been no recent sales on Haida Gwaii and has been working hard with the Council of the Haida Nation (CHN) to address a number of issues that have been raised by Islanders and the CHN. BCTS and the CHN are building a long-term strategy for BCTS operations on Haida Gwaii, including BCTS partnership in the delivery of the community volume.

Invitation for the Community Forest Agreement is progressing well. As you point out, public and CHN consultation has concluded on the proposed tenure area. Discussions are still ongoing to define the partnership between Misty Isle Economic Development Society and BCTS and to explore how the volume offer fits into current legislation. Ministry staff are preparing a brief on the volume offer that will confirm the mandate in relation to the current legislation.

BCTS staff have advised me that, based on the last discussions with the CHN, two timber sales on Graham Island will be advertised by mid-September 2017.

Thank you for writing and for your kind thoughts about our new government and minister.

Sincerely,

Chris Stagg
Assistant Deputy Minister

Page 1 of 2

C-2

His Worship Mayor Urs Thomas

pc: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource
Operations and Rural Development
Tim Sheldon, Deputy Minister of Forests, Lands, Natural Resource Operations
and Rural Development

VILLAGE OF PORT CLEMENTS

Page 1 of 1

Cheque Listing For Council

2017-Aug-30
11:00:30AM

Cheque		Vendor Name	Invoice #	Invoice Description	Invoice Amount	Cheque Amount
Cheque #	Date					
170388	2017-08-28	VILLAGE OF PORT CLEMENTS	20170817	PAYMENT TRANSFER FROM CIBC TO NSCI	150,000.00	150,000.00
170396	2017-08-29	Black Press Group Ltd.	33228349	PAYMENT ADVERTISEMENT	141.75	141.75
170397	2017-08-29	Canadian Recreation Solutions Inc	1292	PAYMENT TIRE SWING SWIVEL	560.00	560.00
170398	2017-08-29	Cumming, Elizabeth	20170823	PAYMENT MATI COURSE - TRAINING	308.49	308.49
170399	2017-08-29	GRAND & TOY LIMITED	20170731	PAYMENT OFFICE SUPPLIES	128.20	128.20
170400	2017-08-29	Lioudmila's Garden	1 3 38 42 49	PAYMENT BLOOMING PROGRAM BLOOMING PROGRAM BLOOMING PROGRAM BLOOMING PROGRAM BLOOMING PROGRAM	112.00 71.68 33.12 50.32 112.00	379.12
170401	2017-08-29	MUNICIPAL INFORMATION SYSTEMS INC	20170850	PAYMENT MUNIWARE SOFTWARE	309.04	309.04
170402	2017-08-29	North Coast Regional District	20170814	PAYMENT 3RD QUARTER GARBAGE BILLIN	13,851.00	13,851.00
170403	2017-08-29	NORTHERN LABS LTD.	1700695 1700696	PAYMENT SEWER TESTING IRB TESTING	119.18 63.00	182.18
170404	2017-08-29	PACIFIC BLUE CROSS	510657	PAYMENT EXTENDED HEALTH & DENTAL	1,307.97	1,307.97
170405	2017-08-29	PORT AIR CARGO	vpc0717	PAYMENT SHIPPING	21.00	21.00
170406	2017-08-29	RECEIVER GENERAL - CRA	20170828	PAYMENT REMITTANCE	5,321.36	5,321.36
170407	2017-08-29	Stewart McDannold Stuart	76707 76708	PAYMENT LEGAL FEES LEGAL SERVICES	352.25 817.47	1,169.72
170408	2017-08-29	WEIGUM, SHIRLEY	031826	PAYMENT JANITORIAL SERVICES	1,050.00	1,050.00

Total 174,729.83

*** End of Report ***

F-1



The Village of
PORT CLEMENTS
"Gateway to the Wilderness"

36 Cedar Avenue West
PO Box 198
Port Clements, BC
V0T1R0
OFFICE :250-557-4295
Public Works :250-557-4326
FAX : 250-557-4568
Email : office@portclements.ca
Web : www.portclements.ca

REPORT TO COUNCIL

Author: Kim Mushynsky

Date: August 29, 2017

Re: Rainbow Wharf

Background: In the late 1990's/early 2000's the Village of Port Clements negotiated with the Federal Government for the transfer of the Rainbow Wharf from Federal to local jurisdiction. The end result of that negotiation was that the Federal Government transferred the water lot to the jurisdiction of the Province, transferred ownership of any land based assets (the large shed that is now located behind the biomass system) to the Village and gave the Village a grant with which to bring the wharf to a standard acceptable to the Federal Government. The grant was tied to specific upgrades that were required for the wharf. As part of this whole process the Village ended up with a 30 year lease agreement with the Province for the operation and maintenance of the wharf. This lease expires in 2032. The management agreement and lease are attached to this report for reference. Also for reference between 2004-2009 the Village spent \$518,950 on upgrades to the wharf before they started to offer it for commercial use to the public. As the wharf is being used commercially we have a requirement to have it inspected regularly and then address whatever concerns arise as a result of the inspection. Below is a chart of revenues and expenses which have been realized as a result of running the dock from 2010 to 2016 inclusive:

Year	Revenue	Expense	Income/Loss	Income/Loss to date
2010	\$2,848	\$ 2,880	(\$ 32)	(\$ 32)
2011	\$9,982	\$ 1,357	\$ 8,625	\$ 8,593
2012	\$4,753	\$ 1,992	\$ 2,761	\$11,354
2013	\$8,136	\$21,598	(\$13,462)	(\$ 2,108)
2014	\$7,287	\$ 3,990	\$ 3,297	\$ 1,189
2015	\$9,399	\$31,953	(\$22,554)	(\$21,365)
2016	\$6,337	\$ 9,659	(3,322)	(\$24,687)

In the seven full years that Port Clements has been operating the dock it has had a net cost of \$24,687 to tax payers. This averages to approximately \$3,500 per year. In 2015 an inspection was done which identified that approximately \$330,000 worth of repairs are required to be done if we wish to continue to have the wharf available for commercial use. Even without these current repairs, it is clear that the wharf does not operate on a break even basis. However the wharf is used for enjoyment by residents as well as for commercial use. At this particular juncture in time the Village of Port Clements does have grant funding available that we could direct to this asset to bring it up to standards once again. This would mean that those funds would not be available for other projects in the community so Council will have to make a decision on what the priority is for Port Clements for those funds. As it was up to standard at the end of 2009 this means that it will probably require substantive repairs again in 6-8 years. It is unknown what funding opportunities may, or may not, be available at that time to address this issue. Council tasked Administration with researching our obligations under the current lease agreement to determine if we were required to keep the wharf at Commercial standards. We have had discussions with our lawyers and with the Ministry of Forest, Lands and Natural Resources, who administer the lease on behalf of the Province, and determined that down-grading the lease to non-commercial use is an option for the Village.

To put the repairs in to perspective against the normal operating revenues for the Village of Port Clements, our annual tax revenue from property tax is approximately \$122,000. In addition we currently receive a Small Community Grant from the Province that was \$386,000 for 2017. This is a grant that has been in place for several years but is not a legislated grant (not fixed in law) and therefore subject to removal, decrease or increase at the Province's whim. Without factoring in water and sewer, which are supposed to each be self-sufficient funds, the repairs to the wharf represent more than 75% of our main annual revenue.

Council needs to make a decision on what to do with the Rainbow Wharf.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Kim Mundy". The signature is fluid and cursive, with the first name "Kim" and last name "Mundy" clearly distinguishable.

MANAGEMENT PLAN

The attached is the Management Plan for **File No. 0121803**



Authorized signature for
**CORPORATION OF THE
VILLAGE OF PORT CLEMENTS**

JOAN ANN ALLEN

Print name of person signing

APRIL 15, 2002

Date Signed



Authorized signature for
British Columbia Assets and
Land Corporation

Leah Johnstone

Print name of person signing

April 25/02

Date Approved

SITE PLAN

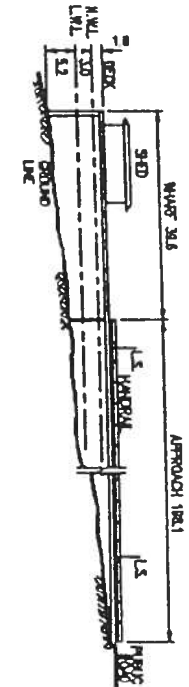
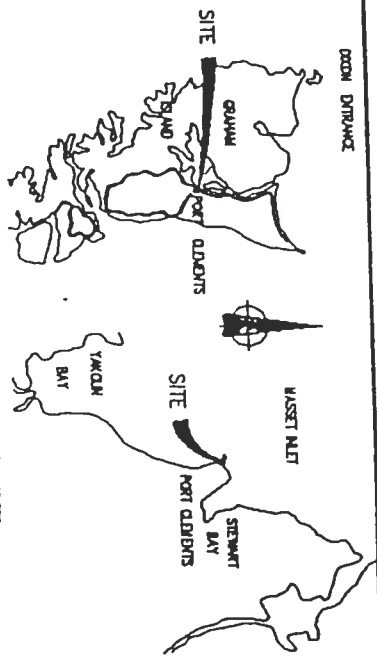
1

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·N·
...

Scale : ATTACHED
Drawn by: _____

TABLE OF DEVELOPMENT

NATURE OF IMPROVEMENT	AREA	COMPLETION DATE FOR IMPROVEMENTS
N/A		NO IMPROVEMENTS ARE PLANNED



LOCATION CHARTS

SOUTH SIDE ELEVATION

DESCRIPTION

A. THE STRUCTURES ARE LOCATED AT THE END OF THE MAIN ROAD IN THE SETTLEMENT OF PORT CLEMENTS ON THE EAST SHORE OF MASSET INLET ON GRAHAM ISLAND OF THE QUEEN CHARLOTTE ISLANDS, B.C.

LATITUDE : 53° 41' 21" N
LONGITUDE : 123° 11' 10" W

LOT 2908, QUEEN CHARLOTTE ISLANDS DISTRICT, STEWART BAY, B.C.

B. THE STRUCTURES CONSIST OF TRESTLE APPROACH AND A WHARFHEAD.

C. THE STRUCTURES ARE APPROACHED DIRECTLY FROM A PUBLIC ROAD END.

D. THE STRUCTURES ARE SERVICED WITH ELECTRICAL POWER, LIGHTING, A METAL SHED AND 3 PRIVATELY OWNED FUEL UNITS.

E. THE STRUCTURES ARE NOW IN ORDER TO BE USED FOR PUBLIC TRAFFIC.

F. LIMITING LOADS ARE:
APPROACH - CS-250, AXLE LOAD 75kN
WHARFHEAD - CS-272, AXLE LOAD 82kN

G. COMPLETION DATE - BEFORE 1938
MAJOR REPAIRS - APPROACH 1966, 1981
WHARF 1966, 1981

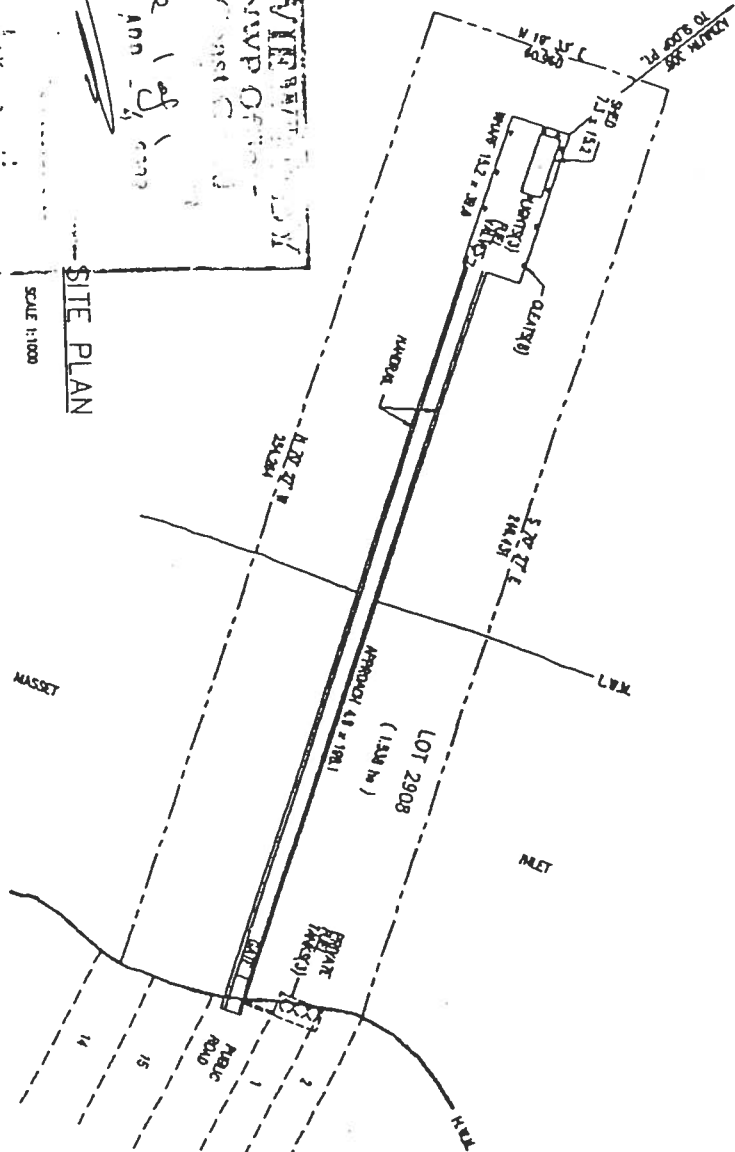
H. O.L.C. No. 1504, DEC. 29, 1938
O.L.C. No. 346, FEB. 18, 1954
P.C. No. 1854-31/501, APRIL 8, 1954
O.L.C. No. 2783, AUG. 22, 1974

REVISION	D	DATE	REV. BY	CHK
REVISION	C	DATE	REV. BY	CHK
REVISION	B	DATE	REV. BY	CHK
REVISION	A	DATE	REV. BY	CHK
SCALE AS NOTED		DATE	REV. BY	CHK
COST CODE	8856	FILE NO.	9664-1414	

TRANSPORT CANADA
HARBOURS AND PORTS
WESTERN REGION

PORT CLEMENTS, B.C.
APPROACH & WHARF
PLAN & DESCRIPTION

VANCOUVER, B.C. DATE



SITE PLAN

Page 1 of 1
Ann. 1, 1977

8760-97-80752



Lease No.:

635320

File No.: 0121803

Disposition No.: 820016

THIS AGREEMENT is dated for reference May 6, 2002 and is made under the *Land Act*.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Land Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

CORPORATION OF THE VILLAGE OF PORT CLEMENTS
PO Box 198
Port Clements BC V0T 1R0

(the "Lessee")

The parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 In this Agreement,

"Agreement" means this lease;

"Commencement Date" means May 6, 2002;

"disposition" has the meaning given to it in the *Land Act* and includes a licence of occupation;

"Improvements" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

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“Land” means that part or those parts of the following described land shown outlined by bold line on the schedule attached to this Agreement entitled “Legal Description Schedule”:

DISTRICT LOT 2908, QUEEN CHARLOTTE DISTRICT

except for those parts of the land that, on the Commencement Date, consist of highways (as defined in the *Highway Act*);

“Management Plan” means the most recent management plan prepared by you in a form acceptable to us, signed and dated by the parties, and held on file by us;

“Realty Taxes” means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any competent governmental authority which relate to the Land, the Improvements or both of them;

“Rent” means the rent set out in Article 3;

“Security” means the security referred to in section 6.1 or 6.2, as replaced or supplemented in accordance with section 6.5;

“Term” means the period of time set out in section 2.2;

“we”, “us” or “our” refers to the Province alone and never refers to the combination of the Province and the Lessee: that combination is referred to as **“the parties”**; and

“you” or “your” refers to the Lessee.

- 1.2 In this Agreement, “person” includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.
- 1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.

- 1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 1.10 All provisions of this Agreement in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Agreement.
- 1.11 Time is of the essence of this Agreement.
- 1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.
- 1.13 Where this Agreement contains the forms of words contained in Column I of Schedule 4 of the *Land Transfer Form Act*, those words will have the same effect and be construed as if the appropriate forms of words contained in Column II of that Schedule were contained in this Agreement, unless the context requires another construction of those words.

ARTICLE 2 - GRANT AND TERM

- 2.1 On the terms and conditions set out in this Agreement, we grant you a lease of the Land for public wharf purposes, as set out in the Management Plan.
- 2.2 The term of this Agreement commences on the Commencement Date and terminates on the

30th anniversary of that date, or such earlier date provided for in this Agreement.

ARTICLE 3 - RENT

3.1 The Rent for the Term is \$1.00, the receipt of which we acknowledge.

ARTICLE 4 - COVENANTS

4.1 You must

- (a) pay, when due,
 - (i) the Rent to us at the address set out in Article 10,
 - (ii) the Realty Taxes, and
 - (iii) all charges for electricity, gas, water and other utilities supplied to the Land;
- (b) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;
- (c) observe, abide by and comply with
 - (i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land and the Improvements, or their use and occupation, and
 - (ii) the provisions of this Agreement;
- (d) in respect of the use of the Land by you or by anyone you permit to use the Land, keep the Land and the Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, make the Land and the Improvements safe, clean and sanitary;
- (e) not commit any wilful or voluntary waste, spoil or destruction on the Land or do anything on the Land that may be or become a nuisance or annoyance to an owner or occupier of land in the vicinity of the Land;
- (f) use and occupy the Land only in accordance with and for the purposes set out in the Management Plan;

- (g) not construct, place, anchor, secure or affix any Improvement in, on, to or into the Land except as permitted in the Management Plan and, despite the Management Plan, you will not construct, place, anchor, secure or affix anything on or to the Land that may interfere with the riparian right of access of any person over the Land without first obtaining from that person a statutory right of way, in registrable form and in our favour, by which that person allows us to curtail his or her riparian right of access over the Land;
- (h) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Land except for money that you are required to hold back under the *Builders Lien Act*;
- (i) if any claim of lien over the Land is made under the *Builders Lien Act*, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (j) not cut or remove timber on or from the Land without
 - (i) our prior written consent, and
 - (ii) being granted the right under the *Forest Act* to harvest Crown timber on the Land;
- (k) store bulk hazardous petroleum products and other toxic substances in accordance with the provisions of the *Waste Management Act*;
- (l) not use construction materials containing toxic substances, except in marine waters where the use of a preservative-treated wood may be necessary;
- (m) not without prior written consent from us
 - (i) deposit on the Land, or any part of it, any earth, fill or other material for the purpose of filling in or raising the level of the Land;
- (n) take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*;

- (o) not alter, repair or add to any Improvement without our prior written consent;
- (p) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements;
- (q) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of
 - (i) your breach, violation or nonperformance of a provision of this Agreement, and
 - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,

and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and

- (r) on the termination of this Agreement,
 - (i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii) and (iii), the Improvements in a safe, clean and sanitary condition,
 - (ii) within 90 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building or part of the Land,
 - (iii) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the Land under another disposition, and
 - (iv) restore the surface of the Land as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

and all of your right, interest and estate in the Land will be absolutely forfeited to us, and to the extent necessary, this covenant will survive the termination of this Agreement.

4.2 You will not permit any person to do anything you are restricted from doing under this Article.

4.3 We will provide you with quiet enjoyment of the Land.

ARTICLE 5 - LIMITATIONS

5.1 You agree with us that

- (a) we are under no obligation to provide access or services to the Land or to maintain or improve existing access roads;
- (b) this Agreement is subject to
 - (i) all subsisting grants to or rights of any person made or acquired under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, Wildlife Act or Water Act*, or any extension or renewal of the same, whether or not you have actual notice of them, and
 - (ii) the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
- (c) without limiting section 4.1(q), you must indemnify and save us and our servants, employees and agents harmless from and against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of any conflict between your rights under this Agreement and the rights of any person under a disposition or under a subsisting grant to or right of any person made or acquired under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, Wildlife Act or Water Act* (or any prior or subsequent enactment of the Province of British Columbia of like effect), or any extension or renewal of the same, whether or not you have actual notice of them, and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand;
- (d) you release us from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the future have against us arising out of any conflict between your rights under this Agreement and the rights of any person under a disposition or under a subsisting grant to or right made or acquired under the enactments referred to in subsection (c), and you acknowledge that this Agreement and your rights under this Agreement are subject to those grants and rights referred to in subsection (c) whether or not you have actual notice of them.

- (e) with your prior consent, which consent you will not unreasonably withhold, we may make other dispositions of or over the Land, or any part of it, to a person, including a Crown agency or ministry, and, upon such consent being given you will, if required by us in the case of a disposition by way of easement, right of way or statutory right of way, immediately execute and deliver to us such instrument as may be necessary to subordinate your rights under this Agreement to such easement, right of way or statutory right of way;
- (f) for the purpose of subsection (e), you will be deemed to have reasonably withheld your consent if a disposition made under that subsection would materially affect the exercise of your rights under this Agreement;
- (g) you will make no claim for compensation, in damages or otherwise, in respect of a disposition made under subsection (e), where such disposition does not materially affect the exercise of your rights under this Agreement;
- (h) subject to subsection (g), all of your costs and expenses, direct or indirect, that arise out of any lawful interference with your rights under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles reserved to us in subsections (b) and (e) will be borne solely by you;
- (i) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any lawful interference with your rights under this Agreement that arises as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (b) and (e);
- (j) any interference with your rights under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (e) and (f) will not constitute a breach of our covenant of quiet enjoyment and you release and discharge us from all claims for loss or damage arising directly or indirectly out of any such interference;
- (k) you will not dredge or displace beach materials on the Land without our prior written consent;
- (l) you will not interrupt or divert the movement of water or of beach materials by water along the shoreline without our prior written consent;
- (m) there will be no changes to existing improvements without our prior written consent and the approval of the Department of Fisheries and Oceans Canada;

- (n) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement;
- (o) any interest you may have in the Improvements ceases to exist and becomes our property upon termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(r)(ii) or (iii) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(r)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(r)(iii); and
- (p) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly tenant only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 6 - SECURITY AND INSURANCE

- 6.1 On the Commencement Date, you will deliver to us security in the amount of \$0.00 which will
- (a) guarantee the performance of your obligations under this Agreement;
 - (b) be in the form required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.
- 6.3 We may use the Security for the payment of any costs and expenses incurred by us to perform any of your obligations under this Agreement that are not performed by you and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.
- 6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.
- 6.5 You acknowledge that we may, from time to time, notify you to

- (a) change the form or amount of the Security; and
- (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement;

and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.

6.6 You must

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, effect and keep in force during the Term Comprehensive/Commercial General Liability insurance protecting us as an additional insured in an amount of not less than \$1,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury and property damage, and claims for liability assumed under contract, arising from all accidents or occurrences on the Land or the Improvements;
- (b) on the Commencement Date and immediately upon demand, deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance required to be maintained by you under this Agreement;
- (c) ensure that all insurance required to be maintained by you under this Agreement is
 - (i) placed with insurers licensed in British Columbia,
 - (ii) primary and does not require the sharing of any loss by any insurer that insures us, and
 - (iii) endorsed to provide us with 30 days' advance written notice of cancellation or material change; and
- (d) deliver to us, immediately upon demand, certified copies of all policies of insurance required to be maintained by you under this Agreement.

6.7 You acknowledge that we may, from time to time, notify you to

- (a) change the amount of insurance set out in subsection 6.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

ARTICLE 7 - ASSIGNMENT

- 7.1 You must not sublease, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold in our sole discretion.
- 7.2 For the purpose of section 7.1, if you are a corporation, a change in control (as that term is defined in subsection 1(4) of the *Company Act*) will be deemed to be a transfer of this Agreement.
- 7.3 Section 7.2 does not apply to a corporation if the shares of the corporation which carry votes for the election of the directors of the corporation trade on a stock exchange located in Canada.
- 7.4 Prior to considering a request for our consent under section 7.1, we may require you to meet certain conditions, including without limitation, that you submit to us a "site profile", "preliminary site investigation" or "detailed site investigation" (as those terms are defined in the *Waste Management Act*) for the Land or other similar type of investigation of the Land.

ARTICLE 8 - TERMINATION

- 8.1 You agree with us that
- (a) if you
 - (i) default in the payment of any money payable by you under this Agreement, or
 - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),and your default or failure continues for 60 days after we give written notice of the default or failure to you,
 - (b) if, in our opinion, you fail to make diligent use of the Land for the purposes set out in this Agreement, and your failure continues for 60 days after we give written notice of the failure to you;

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- (c) if you
 - (i) become insolvent or make an assignment for the general benefit of your creditors,
 - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or
 - (iii) voluntarily enter into an arrangement with your creditors;
- (d) if you are a corporation,
 - (i) a receiver or receiver-manager is appointed to administer or carry on your business, or
 - (ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;
- (e) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent; or
- (f) if this Agreement is taken in execution or attachment by any person;

this Agreement will, at our option and with or without entry, terminate, and all of your right, interest and estate in the Land will be absolutely forfeited to us.

8.2 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.

8.3 You agree with us that

- (a) you will make no claim for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and
- (b) our remedies under this Article are in addition to those available to us under the *Land Act*.

ARTICLE 9 - DISPUTE RESOLUTION

- 9.1 If any dispute arises under this Agreement, the parties will attempt to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.
- 9.2 Subject to section 9.5, if a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act*.
- 9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.
- 9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Smithers, British Columbia, and if we or our authorized representative have no office in Smithers, British Columbia, then our offices (or the offices of our authorized representative) that are closest to Smithers, British Columbia.
- 9.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 9.2.

ARTICLE 10 - NOTICE

- 10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

Land and Water British Columbia Inc.
3726 Alfred Ave Bag 5000
Smithers BC V0J 2N0;

to you

CORPORATION OF THE VILLAGE OF PORT CLEMENTS
PO Box 198
Port Clements BC V0T 1R0;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 10.1.
- 10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 11 - MISCELLANEOUS

- 11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 11.3 The grant of a sublease, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublease, assignment or transfer of this Agreement.
- 11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be

extended by a period of time equal to the period of time of the delay so long as

- (a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
- (b) you diligently attempt to remove the delay.

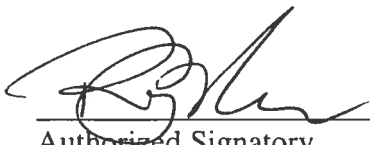
11.6 You agree with us that

- (a) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with your use of the Land and the Improvements for the purposes set out in this Agreement; and
- (b) nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.

11.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA** by
Land and Water British Columbia Inc.,
authorized representative of the
minister responsible for the *Land Act*



Authorized Signatory,
Land and Water British Columbia Inc.


Lease

635320

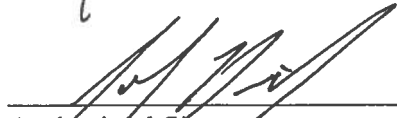
File No.: 0121803

Disposition No.: 820016

SIGNED on behalf of
CORPORATION OF THE VILLAGE OF PORT CLEMENTS
by its authorized signatories



Authorized Signatory

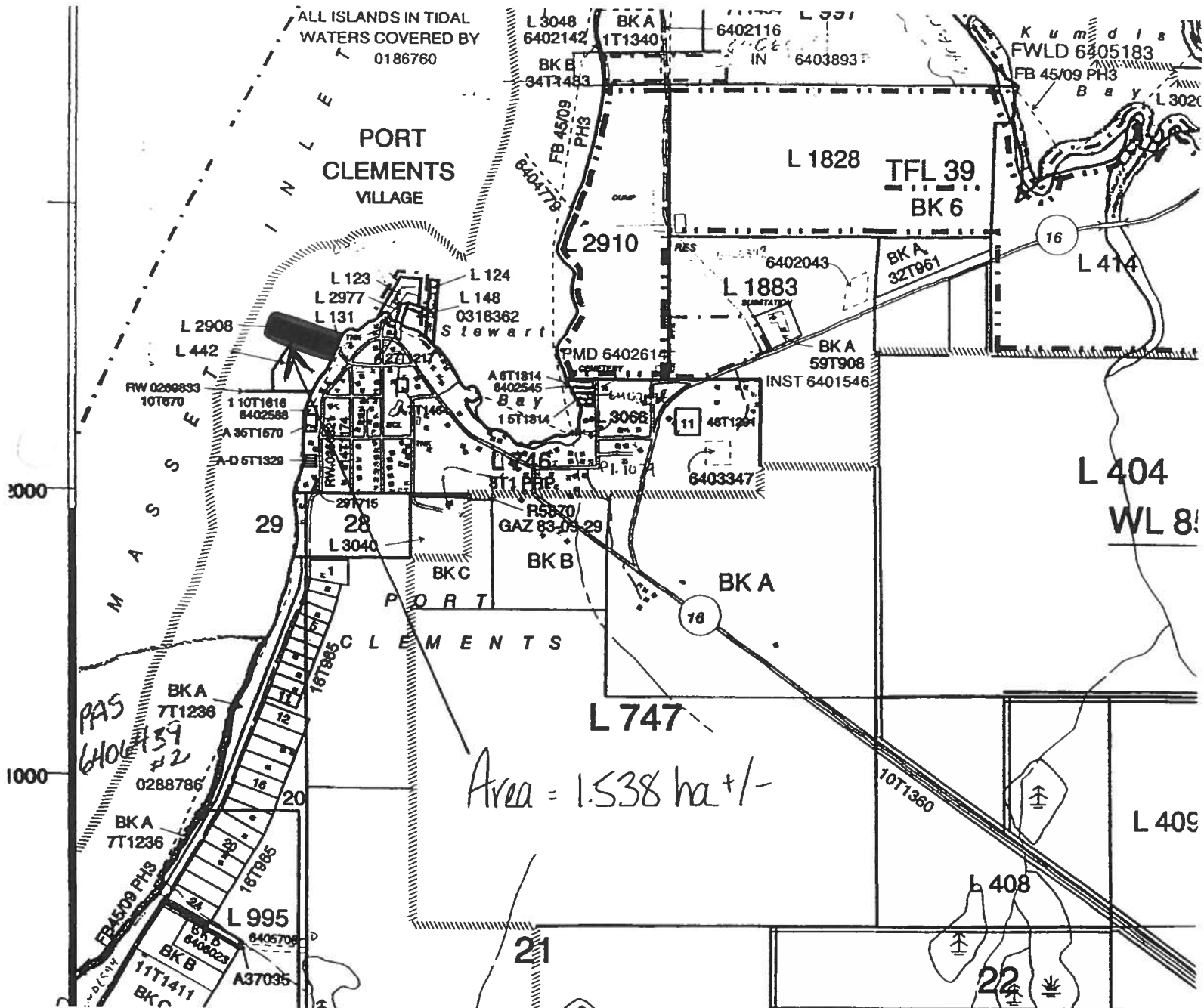


Authorized Signatory

R-1

LEGAL DESCRIPTION SCHEDULE

DISTRICT LOT 2908, QUEEN CHARLOTTE DISTRICT



R-1



The Village of
PORT CLEMENTS
"Gateway to the Wilderness"

36 Cedar Avenue West
PO Box 198
Port Clements, BC
V0T1R0
Phone : 250-557-4295
FAX : 250-557-4568
Email : cao@portclements.ca
Web : www.portclements.ca

REPORT TO COUNCIL

Author: Ruby Decock

Date: September 2017

RE: Bylaw Enforcement of the "Village of Port Clements Bylaw Enforcement Ticket Information Bylaw, No. 435, 2016, Bylaw #435 for the issuance of tickets for the "Village of Port Clements Amended Dog Bylaw, No. 434, 2016"

Background: The "Village of Port Clements Bylaw Enforcement Ticket Information Bylaw, No. 435, 2016" was enacted on January 1, 2017 due to the numerous complaints about loose dogs or problem dogs within the community.

The intent of this bylaw is to have dog owners keep their dogs within their property and control their pets within the municipal boundaries. There are two approaches to bylaw enforcement: the Municipal Information Ticket (MTI) and a Bylaw Enforcement Notice (BEN). We currently have the MTI system, but this is impractical as this requires investigations, in-person ticket service, and court hearings for ticket appeals. MTI's will only be practical if Council chooses to enforce other Bylaws with associated fines greater than \$500.

Switching to the Bylaw Enforcement Notice (BEN) would require several actions:

1. The Village of Port Clements to request the Ministry of Attorney General to have the Local Government Bylaw Notice Enforcement Act is permitted within the Village of Port Clements as part of the Nanaimo Adjudication System.
2. Join the Nanaimo Adjudication System – Costs per hearing is \$350 plus travel costs. The Village of Port Clements will only have to pay a percentage of the costs. The percentage of the costs is based on the number of files being heard. If VOPC has 50% of the files being heard, then VOPC will pay 50% of the costs. For additional background information on establishing a bylaw adjudication system, please see the attached copies of Nanaimo's Bylaw No. 7159 and a RTC to the City of Nanaimo submitted by Randy Churchill.

3. Council to designate a Bylaw Enforcement Officer as per the Community Charter Section 264 (1)(b).
4. Council to appoint a Screening Officer as per the Local Government Bylaw Notice Enforcement Act Section 3(b).
5. Purchase Bylaw Enforcement Notices at the cost of approximately \$630 plus taxes.

To date, there have been several warning letters and only one warning ticket issued, but no tickets issuing fines.

Required direction for Bylaw Enforcement within Port Clements

1. Change the Bylaw Enforcement System from MTI's to Bylaw Enforcement Notices. This would require VOPC to join an existing adjudication system or hire an adjudication firm. Appoint a Bylaw Enforcement Officer
2. Repeal the "Village of Port Clements Bylaw Enforcement Ticket Information Bylaw, No. 435, 2016". This would remove all bylaw enforcement costs.

Which option would council like to undertake?

CITY OF NANAIMO

BYLAW NO. 7159

A BYLAW RESPECTING THE ENFORCEMENT OF BYLAW NOTICES

The Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as the "BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159".

2. Definitions

"Act" means the *Local Government Bylaw Notice Enforcement Act*

"City" means the City of Nanaimo

"Registry" means the City of Nanaimo Bylaw Notice Adjudication Registry established by this bylaw

3. Terms

The terms in this bylaw have the same meaning as the terms defined in the Act.

4. Bylaw Contraventions

The bylaws and bylaw contraventions designated in Schedule "A" attached hereto and forming part of this bylaw may be dealt with by bylaw notice.

5. Offence and Penalty

The penalty for a contravention referred to in Section 4 is as follows:

- (1) Subject to Subsection 5(2) and 5(3), is the Penalty amount set out in Column A1 of Schedule "A".
- (2) If received by the City within 14 days of the person receiving or being presumed to have received the notice, is the Early Payment Penalty set out in Schedule "A".
- (3) If more than 28 days after the person received or is presumed to have received the bylaw notice, is subject to a late payment surcharge in addition to the penalty under Subsection 5(1), and is the Late Payment Penalty set out in Schedule "A".

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-JUN-25

AUTHORED BY: RANDY CHURCHILL
MANAGER OF BYLAW, REGULATION AND SECURITY

RE: INTENT TO ESTABLISH A BYLAW DISPUTE RESOLUTION SYSTEM

STAFF RECOMMENDATION: That Council authorize staff to request the Court Services Branch, Ministry of Attorney General to add the City of Nanaimo to the Bylaw Notice Enforcement Regulation:

PURPOSE:

To have the City of Nanaimo added to the Bylaw Enforcement Regulation through the Court Services Branch, Ministry of Attorney General in order to allow for the establishment of a bylaw dispute resolution system in the city.

BACKGROUND:

To date, the provincial court of BC has handled all disputed bylaw offences. In addition to the direct costs involved, bylaw disputes have tied up court time and contributed to backlogs. The bylaw dispute resolution system allows for minor bylaw matters to be dealt with locally. Serious bylaw offences will continue to be dealt with in provincial court.

DISCUSSION:

Local government issues are not a priority in the provincial court system and can sometimes be delayed. Many bylaw disputes also require legal counsel which is an added cost. The experience of other municipalities is that this is a cost neutral system. A bylaw dispute resolution system simplifies the procedure and would not require the assistance of legal counsel.

The *Local Government Bylaw Notice Enforcement Act* provides a framework for a non-judicial system for local governments to deal with bylaw ticket disputes. A bylaw dispute resolution system is more cost effective and efficient when dealing with disputes. Currently a bylaw dispute can take up to a year to get through the court.

When the City takes over the parking function, it is expected that there will be a significant increase in the number of bylaw disputes. The volume of disputes would further slow the court system dealing with bylaw violations. A bylaw dispute resolution system would simplify the process and provide a more efficient and cost effective process for disputes.

The City must be added to the Bylaw Notice Enforcement Regulation before a bylaw dispute resolution system can be developed. If Council supports the Staff recommendation, the next step will be to have City of Nanaimo added to the regulation. If the City is successful in being added to the regulation, a further report will be forwarded to Council with a complete outline of the system.

The application to the Ministry of Attorney General is a necessary step in moving the City's parking enforcement function in house.

Respectfully submitted,

Randy Churchill
Manager of Bylaw, Regulation and Security
Community Safety and Development

Concurrence by:

Andrew Tucker
Director of Planning
Community Safety and Development

Ted Swabey
General Manager
Community Safety and Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-Jun-18
g:/reports 2012/disputeresolution.doc
RC/gh

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