

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT dated for reference _____ is between:

PACIFIC SWELL DEVELOPMENTS INC.

(the “**Buyer**”)

AND:

THE CORPORATION OF THE CITY OF COURTENAY

(the “**Seller**”)

BACKGROUND

- A. The Seller is the legal and beneficial owner of the Property (as herein defined).
- B. The Seller has agreed to sell, and the Buyer has agreed to buy, the Property in accordance with the terms of this Agreement.

AGREEMENTS

For good and valuable consideration, the receipt and sufficiency of which each party acknowledges, the parties agree as follows:

PART 1

DEFINED TERMS

1.1 **Defined Terms.** In this Agreement:

- (a) “**Agreement**” means this agreement including all schedules as it may be amended or supplemented from time to time by mutual agreement of the Parties;
- (b) “**Business Day**” means any day except Saturday, Sunday and any statutory holiday in British Columbia;
- (c) “**Buyer’s Conditions**” means collectively those conditions precedent set out in paragraph 3.1;
- (d) “**Buyer Indemnified Parties**” means collectively the Buyer and its directors, officers, employees, delegates, nominees, licensees, contractors, agents and representatives;
- (e) “**Claim**” means any claim, damage, suit, proceeding, charge, loss, cost, expense, liability, demand, action, cause of action, debt, fine, penalty, judgment, order,

interest and/or payment (including legal fees on a lawyer and own client basis and other professional fees);

- (f) “**Closing**” means the completion of the sale and purchase of the Property in accordance with paragraph 7.3;
- (g) “**Closing Conditions**” means those conditions set out in paragraph 3.3;
- (h) “**Closing Date**” means that day which is 60 days after all of the Buyer’s Conditions are waived or declared satisfied in writing, or if such is not a Business Day then the next ensuing Business Day, or such other date as the Buyer and the Seller may otherwise agree upon in writing;
- (i) “**Delivery Materials**” means the documents and materials described in paragraph 5.1(a);
- (j) “**Effective Date**” means the date by which the Buyer and the Seller have both executed and delivered this Agreement;
- (k) “**Environmental Laws**” means any and all statutes, laws, by-laws, regulations, orders, permits, guidelines, standards and policies of any federal, provincial, municipal or other governmental authority now or hereafter in force relating to the protection of the natural environment, public or occupational health and safety, product liability or the transportation, release, handling, disposal, treatment, generation, use or remediation of any Hazardous Substance;
- (l) “**Hazardous Substance**” means any explosives, radioactive materials, asbestos materials, urea formaldehyde, underground or aboveground tanks, pollutants, contaminants, deleterious substances, dangerous goods or substances, wastes, special wastes, or hazardous, corrosive or toxic substances or materials, including without limitation, those defined, judicially interpreted, identified, prohibited, controlled or regulated in any Environmental Laws;
- (m) **Lands**” means the lands and premises legally described as follows:

PID: 006-318-657, THAT PART OF LOT 10, SECTION 69, COMOX DISTRICT, PLAN 3030, TAKEN FOR ROAD PURPOSES AND CONTAINING .27 OF AN ACRE MORE OR LESS, SHOWN IN RED ON PLAN 284 BL

together with all easements, rights of way and other rights enjoyed by the Seller appurtenant to, or in conjunction with, such lands;
- (n) “**Material Damage**” means any destruction of or damage to the Property, the cost of which to restore or repair will, in the opinion of the Buyer, exceed \$10,000;
- (o) “**Parties**” means the Buyer and the Seller and “Party” means either one of them;

- (p) “**Permitted Encumbrances**” means the conditions, provisos, restrictions, exceptions and reservations contained in the Crown grant and those encumbrances described in Schedule A;
- (q) “**Person**” means an individual, corporation, society, partnership, government or governmental department or agency, trustee, and unincorporated organization and includes heirs and legal representatives of any individual;
- (r) “**Property**” means:
 - (i) the Lands;
 - (ii) all other property and improvements of the Seller located on the Lands relating to the operation and maintenance of the Lands;
- (s) “**Purchase Price**” will have the meaning attributed thereto in paragraph 2.2; and
- (t) “**Site Disclosure Statement**” has the same meaning as in the *Environmental Management Act*, SBC 2003, c 53, as amended or replaced from time to time.

1.2 **Schedules.** The following are the schedules attached to and incorporated in this Agreement by reference and are considered to be a part hereof:

Schedule A Permitted Encumbrances.

PART 2

PURCHASE AND SALE

- 2.1 **Purchase and Sale.** The Buyer agrees to buy, and the Seller agrees to sell, the Property on the Closing Date, free and clear of all claims, charges, equities, encroachments, defects in title, liens and encumbrances, except the Permitted Encumbrances, for the price and on the terms set out below.
- 2.2 **Purchase Price.** The Purchase Price will be \$360,000.00, subject to adjustment as provided in paragraph 7.4. The Purchase Price will be paid by solicitor’s trust cheque on the Closing Date as provided in paragraph 7.3.
- 2.3 **GST.** The Purchase Price does not include goods and services tax (“**GST**”) payable under the *Excise Tax Act* (Canada), Section IX (the “**Act**”). On the Closing Date the Buyer will be a registrant under the *Excise Tax Act* (Canada) and shall be responsible for making such elections or self assessment as may be required pursuant to that act, such that the Seller shall not be required to collect GST from the Purchaser on closing, to the extent that GST is applicable to the purchase and sale of the Lands.

PART 3

CONDITIONS PRECEDENT AND CLOSING CONDITIONS

- 3.1 **Buyer's Conditions.** The obligation of the Buyer to complete the purchase of the Property is subject to the Buyer, on or before the date that is July 21, 2025, or such extended date as the parties may agree to in writing:
- (a) having satisfied itself, in its sole discretion, as to the state of the Property, including without limitation, the title, the Permitted Encumbrances, the Property boundaries, the Delivery Materials, the suitability of the Property for the Buyer's purposes, and with the results of physical, environmental and geotechnical inspections of the Property, given that the Property is being transferred to the Buyer on an "as-is, where-is" basis pursuant to paragraph 6.1;
 - (b) the Buyer obtaining the approval of the Seller to remove the existing storm sewer located on the Property in connection with the proposed development to be constructed on the Property by the Buyer, on such other terms acceptable to the Buyer in its sole discretion, provided that the Buyer will be responsible for all costs associated with such removal; and
 - (c) the Lands having been rezoned to Comprehensive Development (CD-41) Zoning substantially on the terms attached hereto as Schedule B, or on such other terms acceptable to the Buyer in its sole discretion, which zoning shall accommodate the Buyer's plans to construct a multi residential development to be located *inter alia* on the Lands.
- 3.2 **Non-Fulfilment of Buyer's Conditions.** The fulfilment of the Buyer's Conditions is a condition precedent to the Buyer's obligation to complete the purchase of the Property, and the Parties acknowledge that the Buyer's Conditions are inserted for the Buyer's benefit only and may be waived by the Buyer or the Buyer's solicitors in whole or in part at any time prior to the date indicated for satisfaction of the same by notice in writing to the Seller or its solicitors without prejudice to the Buyer's rights in the event of the non-fulfilment of any other condition and without diminishing in any way the liability of the Seller in respect of any representations and warranties set out in this Agreement. If the Buyer's Conditions are not waived or declared satisfied by written notice from the Buyer to the Seller on or before the date indicated for satisfaction of the same, this Agreement will terminate and the Buyer will have no obligation to purchase the Property.
- 3.3 **Closing Conditions.** The Seller agrees that:
- (a) on or before Closing, the Seller will have delivered to the Buyer all documents required under paragraph 7.2 in form and substance reasonably satisfactory to the Buyer and will have complied in all material respects with all covenants of the Seller herein, including without limitation, those in Part 5; and
 - (b) the representations and warranties of the Seller in this Agreement, including without limitation those contained in paragraph 4.1, will be true and correct in all

material respects as at Closing with the same force and effect as if made as of the Closing Date.

3.4 **Non-Fulfilment of Closing Conditions.** If any of the Closing Conditions has not been complied with by the Closing Date, then, at the sole option of the Buyer:

(a) the Buyer may terminate this Agreement by notice in writing to the Seller or its solicitors; or

(b) the Buyer may complete the purchase of the Property,

and such will be without prejudice to the Buyer's rights against the Seller, whether at law or in equity, in respect of such non-compliance.

3.5 **Consideration for Non-Revocation.** In consideration of the sum of \$10, which sum is non-refundable, now paid by each Party to the other (the receipt and sufficiency of which is hereby acknowledged), the Parties agree not to revoke or rescind their agreement to buy and sell the Property while this Agreement remains subject to the Buyer's Conditions.

PART 4 SELLER'S REPRESENTATIONS AND WARRANTIES

4.1 **Representations and Warranties.** The Seller represents and warrants to the Buyer that:

(a) **Status of Seller and Authority to Sell**

(i) The Seller is a municipal corporation validly existing under the laws of the Province of British Columbia, and has the power, capacity and authority to own and dispose of the Property, to enter into this Agreement and to carry out the transactions contemplated in it;

(ii) The sale of the Property does not constitute a sale of all or substantially all of the Seller's assets;

(iii) The execution and delivery of this Agreement, and the completion of the transactions contemplated by this Agreement, have been, or will prior to the Closing Date be, duly and validly authorized by all necessary action of the Seller and by all necessary statutory obligations application to the disposition of property by a municipality, and this Agreement constitutes a valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as may be limited by laws of general application affecting the rights of creditors;

(b) **Land**

- (i) There are no work orders or inspector's orders nor notices threatening the same that are outstanding from any governmental authority in any way relating to the Lands;
- (ii) There are no improvements on any adjoining lands, whether public or private, that encroach on the Lands;

(c) **Taxes**

- (i) There are no taxes, rates, levies, assessments or local improvement charges outstanding and relating to the Property of any kind, and the Seller is not subject to any obligations to pay federal and provincial income tax or capital taxes, and there is no pending appeal or other proceedings with respect to any taxes, rates, levies, assessments, or local improvement charges, and the Seller has not received any notice of any special levies or local improvement charges;

(d) **Employment**

- (i) The Seller has no employees who are employed in respect of the Property for whom the Buyer will have any responsibility following the completion of its purchase of the Property;

(e) **Title**

- (i) The Seller is the legal and beneficial owner of the Property holds good and marketable title to the Property free and clear of all claims, liens, charges and encumbrances except the Permitted Encumbrances and to the knowledge of the Seller there exists no basis upon which a claim of builders' liens could be filed against title to the Property as a result of any work carried out on behalf of the Seller;

(f) **No Default.** Neither the execution and delivery of this Agreement, nor the completion of the purchase and sale contemplated in this Agreement will:

- (i) to the best of the Seller's knowledge, violate any of the terms of the constating documents of the Seller, or any order, decree, statute, by-law, regulation, covenant, or restriction, applicable to the Seller or any of the Property;
- (ii) give any person any right to terminate, cancel, or remove all or any portion of the Property;
- (iii) result in any fee, duty, tax, assessment, or other amount relating to all or any portion of the Property (that could attach to, and/or become a lien, charge or encumbrance upon, all or any portion of the Property and/or the

Buyer) becoming due or payable, other than any social services taxes, goods and services taxes or property transfer taxes payable by the Buyer; or

- (iv) result in any encumbrance, except the Permitted Encumbrances, on all or any portion of the Property.

(g) **General**

- (i) There are no actions, suits, claims or proceedings pending or threatened against the Property or the Seller and its employees, agents or any of them which could affect the Property, the Seller's ability to sell the Property or the Buyer's ability to purchase or operate the Property, and the Seller does not know of, or have reasonable grounds for believing that there is any basis for any actions, suits, claims or proceedings that could affect the Property, the Seller's ability to sell the Property or the Buyer's ability to purchase or operate the Property;
- (ii) The Seller is not in default of any of its obligations under any agreement which is intended to be assigned or transferred to the Buyer under this Agreement;
- (iii) The Seller is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada);
- (iv) There are no agreements, contracts or other obligations relating to the Property, including without limitation any service or maintenance contracts, leases, licenses or rights of occupancy which cannot by their terms be terminated without penalty as of the Closing Date other than as disclosed in the Delivery Materials;
- (v) The forms of the Delivery Materials delivered to the Buyer are full, accurate and complete copies and have not been amended or revised except as disclosed to the Buyer in writing;
- (vi) There are no expropriation or similar proceedings actual or threatened, against the Property or any part thereof;
- (vii) The Seller does not owe money to any Person which could now or hereafter constitute a lien, charge, encumbrance or claim against the Property or which could affect the Buyer's right to own, occupy or use the Property;
- (viii) The Seller has not knowingly withheld any facts relating to the Property which would be material to an intending buyer thereof;
- (ix) The Seller maintains, and is in good standing in respect of, its insurance covering the Property;

- 4.2 **Reliance and Survival.** The Seller acknowledges that the Buyer is relying on each of the representations and warranties made by the Seller, all of which will survive the Closing. The liability of the Seller in respect of any of those representations or warranties will not be diminished by the receipt by the Buyer of any information relating to any of them, and the Buyer is not obligated to make any enquiry concerning them.
- 4.3 **Representations will be true on Closing Date.** All representations and warranties of the Seller contained in this Part 4 will be true on the Closing Date as if made on that date except changes occurring prior to the Closing Date of which the Seller has advised the Buyer in writing before Closing and which the Buyer has accepted in writing.
- 4.4 **Indemnity.** The Seller will indemnify and hold harmless the Buyer from and against any and all liabilities, losses, claims and damages incurred or suffered by the Buyer by reason of, or in any way related to, any representation or warranty of the Seller contained in this Agreement being untrue, inaccurate or misleading and/or the Seller being in breach of this Agreement.

PART 5 SELLER'S COVENANTS

- 5.1 **Covenants of the Seller.** The Seller will:
- (a) deliver to the Buyer within 5 Business Days after the Effective Date the following:
 - (i) the latest survey certificate of the Property, if any, in the possession or control of the Seller, showing the location of all existing easements and rights of way and their relationship to the lot lines;
 - (ii) copies of all environmental reports, investigations, assessments, audits, studies, permits, licenses and records with respect to the Property and relating to any Hazardous Substance or Environmental Laws which the Seller has located after conducting a reasonable search of the records in its possession or control; and
 - (iii) copies of all reports and investigations relating to the soil, structure and physical conditions of the Property which the Seller has located after conducting a reasonable search of the records in its possession or control.
 - (b) maintain its existing insurance coverage in respect of the Property in full force and effect until the Closing Date;
 - (c) cooperate with the Buyer's investigation of the Property whether by the Buyer or its consultants and provide the information relating to the Property which the Buyer reasonably requests including permitting the Buyer and its employees, engineers, agents, surveyors and advisors to enter onto the Property before the Closing Date to carry out such inspections, tests, studies, surveys and other investigations of the Property as the Buyer may require provided that:

- (i) the Buyer must restore the Property to its pre-existing condition after such investigations; and
 - (ii) the Buyer shall indemnify and save harmless the Seller and its officers, employees and agents from any and all expenses and harm that may be sustained as a result of or in connection with the Buyer's use of or entry onto the Property and this indemnity shall survive the expiry or other termination of this Agreement;
- (d) provide the Buyer and any of its consultants or advisors with access to the Property from time to time and any books and records relating to the Property during reasonable hours;
 - (e) grant authorizations reasonably required by the Buyer to authorize governmental and statutory authorities to release information regarding the Property and the Seller;
 - (f) not enter into any new contract with respect to the Property that could be binding upon the Buyer without the prior written consent of the Buyer and to cancel and terminate effective as of the Closing Date any existing contracts, other than those approved by the Buyer before the Closing Date and pay and perform any obligations of the Seller in connection with such termination and for greater certainty the Seller covenants and agrees that the Buyer will have no liabilities whatsoever in respect of any contracts other than those specifically approved by the Buyer;
 - (g) not enter into any lease, agreement to lease or any occupancy agreement in respect of the Property;
 - (h) obtain any consents required to validly and effectively transfer the Property to the Buyer;
 - (i) indemnify and save harmless the Buyer from and against all liabilities, claims, demands, actions, causes of action, losses, damages, costs or expenses whatsoever, including legal fees, suffered or incurred by the Buyer by reason of or arising out of any breach of any covenant, term or agreement made in this Agreement by the Seller or the failure of the Seller to pay or discharge any of the obligations of the Seller;
 - (j) until the Closing Date cause the Property to be maintained in the manner of a prudent owner and such that the Seller's representations and warranties remain true and correct, and will not enter into any contracts in respect of the Property that are or may be binding on the Buyer or do anything that might affect the Property or its title, use or value, and the Property will be in substantially the same condition at the Closing Date as on the date inspected by the Buyer in connection with its due diligence under paragraph 3.1;

- (k) pay when due any indebtedness of the Seller to any governmental authority which, by operation of law or otherwise, could become a lien, charge, or encumbrance against the Property from and after the Closing Date, including without limitation, corporation capital taxes and workers' compensation payments;
- (l) not modify, amend, or cancel any of the Permitted Encumbrances without the prior written approval of the Buyer; and
- (m) between the Effective Date and the Closing Date, operate the Property in a good, proper, efficient and competent manner and transfer the Property in clean, tidy and debris-free condition.

5.2 Retention of Liabilities. In addition to and without in any way limiting the Seller's other obligations at law or otherwise, the Seller covenants and agrees as follows:

- (a) to be liable for any Claim; and
- (b) to indemnify and hold each of the Buyer Indemnified Parties completely harmless in respect of any Claim;

whenever and however caused or occurred, and which is directly or indirectly incurred, sustained or suffered by or asserted against any Buyer Indemnified Party relating to, arising out of, resulting from or in any way connected with any breach of any Environmental Laws resulting in the presence of any Hazardous Substance at, in, on, under, or near the Property, other than those directly caused by the Buyer or that are incurred as a direct result of the release or creation of Hazardous Substances at, in, on, under, or near the Property occurring for the first time after the Closing, including, without limitation, the following: any latent defects howsoever caused; the failure of any Person (other than a Buyer Indemnified Party) to comply with any laws, rules, regulations, ordinances, standards, by-laws, orders (including without limitation any Environmental Laws), certificates, permits, approvals, guidelines, policies, consents or directions connected therewith; the costs and expense to study, investigate, clean-up, remediate, control, remove, manage or undertake other action relating to the Property or any other properties affected by any Hazardous Substance, material or waste emanating, migrating or originating from or onto the Property required by common law and/or as a result of Environmental Laws; and compliance with any Environmental Laws. It is understood and agreed that this clause and the covenants of the Seller contained herein shall not expire with or be terminated, merged or extinguished by the closing of the transaction of purchase and sale contemplated by this Agreement, and the indemnity herein shall be conclusively deemed to have been made at the date of Closing with the same force and effect as though such indemnity had been made at that time, and the provisions of this clause shall survive the closing of the purchase of the Park Lands and all related transactions.

PART 6
BASIS OF TRANSACTION

- 6.1 **As-Is, Where-Is.** The Buyer is acquiring the Property on an “as is, where is” basis. The Seller has not made and does not make any representations or warranties with respect to the environmental condition of the Property, the geotechnical condition of the Property, or the suitability of the Property for the Buyer’s purposes.
- 6.2 **Reliance of the Buyer.** The Buyer acknowledges and agrees that it is relying entirely on its own due diligence, advice in relation to the reliability of any Property Reports, and its own independent investigations to satisfy itself fully on every aspect of the Property, including the Environmental Condition and Geotechnical Condition of the Property.
- 6.3 **Development of Property.** The Buyer will be solely responsible for any works and costs necessary to verify the suitability of the Property for the Buyer’s intended purpose and to make any modifications which may be necessary to allow the Buyer to use the Property for the Buyer’s intended purpose, including the removal and relocation of existing utility services in the Property. Without limiting the generality of the foregoing, the Seller has no obligation to demolish or remove from the Property any buildings, improvements, utilities or structures which exist on, in or under Property as of the Effective Date.
- 6.4 **Site Disclosure Statement.** Other than as disclosed by the Seller pursuant to paragraph 5.1(a) the Seller is not aware of any specified industrial or commercial uses of the Property, as those uses are identified in Schedule 2 of the Contaminated Sites Regulation, and therefore the Buyer acknowledges and agrees that it is not entitled to a Site Disclosure Statement in connection with the transaction.

PART 7
COMPLETION OF PURCHASE

- 7.1 **Preclosing Procedure.** The Buyer will cause its solicitors to prepare and deliver to the Seller’s solicitors before the Closing Date those documents described in paragraph 7.2.
- 7.2 **Delivery of Documents – Seller.** On Closing, the Seller will deliver to the Buyer the following documents duly executed by the Seller in favour of the Buyer, or as otherwise specified:
- (a) a Freehold Transfer of the Property in registrable form;
 - (b) a statement of adjustments;
 - (c) a certificate of the Seller certifying that the representations and warranties of the Seller set out in this Agreement are true and correct in all respects as of the Closing Date and that all covenants to be performed by the Seller under this Agreement have been performed up to and including the Closing Date;
 - (d) all additional documents and assurances the Buyer’s solicitors will reasonably require.

- 7.3 **Closing Procedure.** The Closing will commence on the Closing Date at the offices of the Buyer's solicitors. All documents delivered by the Buyer and the Seller on the Closing Date, except the Freehold Transfer concerning the Property, and all closing funds will be tabled at those offices until the Freehold Transfer has been accepted for registration in the applicable Land Title Office and until completion of a post application title search of the Property is found to show that in the normal course of land title office procedure, the title to the Property will issue in the name of the Buyer free and clear of all encumbrances, except the Permitted Encumbrances and any encumbrances for which the Seller's solicitor has provided the Buyer's solicitor with the undertakings to discharge set out below, and then all documents will be released to the appropriate parties and the adjusted Purchase Price will be paid on the Closing Date by the Buyer's solicitors to the Seller's solicitors by solicitor's trust cheque immediately following such release. It will be a condition of the Closing that all matters of payment, execution and delivery of documents and acceptance for registration of the appropriate documents in the appropriate offices of public record all under the terms of this Agreement will be considered to be concurrent requirements, and it is agreed that nothing will be completed at the Closing until everything required as a condition precedent at the Closing has been paid, executed and delivered and until the Freehold Transfer has been accepted for registration as provided above. Upon completion in this manner, the Seller will deliver vacant possession of the Property to the Buyer. If the Seller has any existing financial charges to be cleared from title to the Property, the Seller, while still required to clear such charges from title to the Property, may wait to pay and discharge the existing financial charges until immediately after receipt of the Purchase Price, but in this event, the Seller agrees that the Purchase Price will be paid to the Seller's solicitor on the Canadian Bar Association (BC Branch) standard undertakings to pay out and discharge the charges registered against title to the Property other than the Permitted Encumbrances and remit the balance, if any, to the Seller.
- 7.4 **Adjustments.** All adjustments concerning rents and other income, security deposits, property taxes, insurance premiums, operating expenses, taxes, utilities, fuel, licences and other revenue and expense items normally adjusted between a seller and buyer will be made in respect of the Property as at the Closing Date with the Buyer receiving all revenues and bearing all expenses from and including the Closing Date. Such adjustments will be documented by way of Seller's and Buyer's Statements of Adjustments to be executed and delivered upon Closing.
- 7.5 **Risk.** Until Closing the Property will be and remain at the risk of the Seller and the Seller will hold all policies of insurance and proceeds thereof subject to the interest of and in trust for the Buyer. If, prior to Closing, there occurs any Material Damage to any part of the Property, the Buyer may at its option either terminate this Agreement or close this transaction with the insurance proceeds paid to the Buyer with the Seller paying the deductible.
- 7.6 **Additional Remedies.** If the Seller fails to complete the transaction contemplated in this Agreement through no fault of the Buyer then in addition to any other remedy available to the Buyer at law or in equity, the Buyer will be entitled to seek the remedy of injunctive relief or specific performance in respect of the same.

PART 8 GENERAL

- 8.1 **Amendment.** This Agreement may be amended or supplemented only by a written document signed by the party intended to be obligated by it, and need not be executed under seal.
- 8.2 **Entire Agreement.** This Agreement is the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes any prior agreement and neither Party is bound by any representation, warranty or agreement not included in this Agreement, and in particular no representation or warranty of a party not expressed in this Agreement are to be implied.
- 8.3 **Extended Meanings.** In this Agreement, words importing one gender include the others where appropriate.
- 8.4 **Headings.** In this Agreement, headings are for convenient reference only and will not affect how this Agreement is interpreted.
- 8.5 **Binding Agreement.** This Agreement will bind and benefit each of the Parties, and each of their respective successors, heirs, executors, personal representatives and permitted assigns.
- 8.6 **Governing Law and Jurisdiction.** This Agreement will be governed by, and construed in accordance with, British Columbia law and applicable Canadian law and will be treated in all respects as a British Columbia contract.
- 8.7 **Further Assurances.** Each of the Parties will at all times hereafter execute and deliver at the request of the other party all such further documents, deeds and instruments, and will do and perform all such further acts as may be reasonably necessary to give full effect to the intent and meaning of this Agreement.
- 8.8 **Expenses.** Each of the Parties will be responsible for its own legal fees and other charges incurred in connection with the purchase and sale of the Property, all negotiations between the Parties and the consummation of the transactions contemplated hereby. The Buyer will pay all fees in connection with the registration of the Transfer and all other documents requiring registration provided however that the Seller will pay any costs of clearing title of encumbrances.
- 8.9 **Commissions.** The Seller and Buyer both represent to the other that no commission or other remuneration is payable to any broker, agent or other intermediary retained by with the Seller or the Buyer in connection with the sale of the Property.
- 8.10 **Tender.** Any tender of documents, notices or money hereunder may be made upon the Seller or the Buyer or the solicitor acting for either of them.

8.11 **Notices.** In this Agreement:

- (a) any notice or communication required or permitted to be given under the Agreement will be in writing and will be considered to have been given if delivered by hand, transmitted by facsimile transmission or mailed by prepaid registered post in Canada, to the address or email of each Party set out below:

- (i) if to the Seller:

Pacific Swell Developments Inc.
5759 Larson Place
West Vancouver, BC V7W 1S5

Attention: Ryan Cohen
Email: ryan@pacswell.ca

- (ii) if to the Buyer:

The City of Courtenay
830 Cliffe Avenue
Courtenay, BC V9N 2J7

Attention: ♦
Fax No: ♦

or to such other address or facsimile transmission number as any Party may designate in the manner set out above;

- (b) notice or communication will be considered to have been received:
- (i) if delivered by hand during business hours, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next business day;
- (ii) if sent by facsimile transmission during business hours, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business on the next business day; and
- (iii) if mailed by prepaid registered post in Canada, upon the 5th business day following posting; except that, in the case of a disruption or an impending or threatened disruption in postal services every notice or communication shall be delivered by hand or sent by facsimile transmission;
- (c) for the purposes of this paragraph “business day” will mean a day which is not a Saturday or defined as a “holiday” under the *Interpretation Act* of British Columbia, as amended or replaced from time to time.

- 8.12 **Time of Essence.** Time is of the essence of this Agreement.
- 8.13 **Counterparts.** This Agreement may be signed by original or by facsimile or by electronic means and executed in any number of counterparts, and each executed counterpart will be considered to be an original. All executed counterparts taken together will constitute one agreement.
- 8.14 **Non-Merger.** None of the provisions of this Agreement will merge in the transfer of the Property and all of the provisions of this Agreement will survive the Closing Date and the completion of the transfer of the Property to the Buyer.
- 8.15 **Insurance.** Until Closing, the Seller will maintain in effect all policies of insurance now in effect, or renewals thereof, concerning the Property and take out, at the expense of the Buyer, such additional insurance as may be reasonably requested by the Buyer and give all notices and present all claims under all policies of insurance in a due and timely fashion.
- 8.16 **Joint and Several.** If any of the parties to this agreement comprise more than one person, each of the persons comprising such party agrees that all covenants, representations and warranties made by that party under this Agreement are the joint and several covenants, representations and warranties of all such persons.

TO EVIDENCE THEIR AGREEMENT EACH OF THE PARTIES HAS EXECUTED THIS AGREEMENT ON THE DATE APPEARING BELOW.

PACIFIC SWELL DEVELOPMENTS INC.

By: _____
Authorized Signatory

Dated: _____

THE CORPORATION OF THE CITY OF COURTENAY

By: _____
Authorized Signatory

Dated: _____

SCHEDULE A

PERMITTED ENCUMBRANCES

Legal Notations:

Charges, Liens and Interests:

Undersurface Rights M76302

SCHEDULE B
PROPOSED CD-41 ZONING

(see attached)