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LAND TITLE ACT  
FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

Page 1 of 6 pages

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

Jim Blair  
City of Vancouver Law Department  
453 West 12<sup>th</sup> Avenue  
Vancouver, B.C., V5Y 1V4  
Phone 604-873-7514 (JFB/mk) Client No. 10647

Signature of Agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*

(PID)

(LEGAL DESCRIPTION)

010-319-883

Lot B Block 2 North East 1/4 of Section 23 Town of  
Hastings Suburban Lands Plan 7778

3#  
CHZ

3. NATURE OF INTEREST:\*

DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Section 219 Covenant	Article 1 Pages 3 and 4	Transferee
Statutory Right of Way	Article 2 Page 4	Transferee
Equitable Charge	Article 4 Page 5	Transferee

4. TERMS: Part 2 of this instrument consists of (select one only) NL 08/04/11 14:01:47 01 LM 834143

- (a) Filed Standard Charge Terms  D.F. No. CHARGE \$198.45
- (b) Express Charge Terms  Annexed as Part 2
- (c) Release  There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharge as a charge on the land described in Item 2.

5. TRANSFEROR(S):\*

THE CATHOLIC INDEPENDENT SCHOOLS OF VANCOUVER ARCHDIOCESE  
(Incorporation No. S0005277)

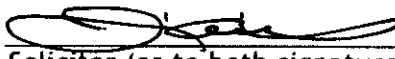
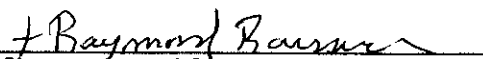

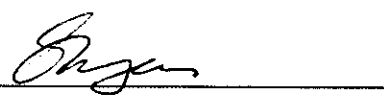
6. TRANSFEREE(S):\* (including postal address(es) and postal code(s))\*

CITY OF VANCOUVER, a municipal corporation  
453 West 12<sup>th</sup> Avenue, Vancouver, B.C., V5Y 1V4

7. ADDITIONAL OR MODIFIED TERMS:\*

N/A

8. EXECUTION(S):\*\* This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
 Solicitor ( <del>as to both signatures</del> ) <b>JAMES D. LEITH</b> BARRISTER & SOLICITOR 2000 - 595 BURRARD ST. VANCOUVER, B.C. V7X 1R7	08	03	28	THE CATHOLIC INDEPENDENT SCHOOLS OF VANCOUVER ARCHDIOCESE by its authorized signatories:   Signature and Print Name RAYMOND ROUSSIN  Signature and Print Name
 JEAN F. BILLING Barrister and Solicitor 453 West 12 <sup>th</sup> Avenue Vancouver, B.C., V5X 1V4 Tel: 604-871-7694	08 07	04	08	CITY OF VANCOUVER, by its authorized signatory:   GRAHAM P. JOHNSEN

OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

\*\* If space insufficient, continue executions on additional page(s) in Form D.

**TERMS OF INSTRUMENT - PART 2  
STATUTORY RIGHT OF WAY AND SECTION 219 COVENANT  
TO PRESERVE NATURAL WATERCOURSE  
2880 Venables Street**

**Introduction**

A. In this Agreement:

- (i) the Transferor, The Catholic Independent Schools of Vancouver Archdiocese, is called the "Owner"; and
- (ii) the Transferee, the City of Vancouver, is called the "City" where referred to as the municipal corporation and the "City of Vancouver" where referred to as the geographical area;

B. The Owner is the registered owner of the lands and premises situated at 2880 Venables Street in the City of Vancouver, with the legal description:

PID: 010-319-883

Lot B Block 2 North East 1/4 of Section 23 Town of Hastings  
Suburban Lands Plan 7778

(the "Lands");

C. The Owner wishes to develop the Lands to permit alterations and additions to the existing school on the Lands (the "Building") and for that purpose has submitted to the City the Development Permit Application No. DE410128 (the "DP Application");

D. City records show that there exists on the Lands, below their surface, a portion of an old natural watercourse by which rainwater, groundwater and other forms of run-off flow through and from the Lands to lands at lower elevations within the City of Vancouver (the "Watercourse"); and

E. The City has approved the DP Application on the condition, among others things, that the Owner covenant to the City as an enforceable charge against the Lands that the Owner will take all steps necessary to preserve, maintain and restore the portion of the Watercourse situated on the Lands.

THEREFORE, in consideration of the matters referred to in the foregoing recitals, the covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the parties), the parties hereto hereby covenant and agree as follows:

**ARTICLE 1  
SECTION 219 COVENANT**

1.1 Pursuant to Section 219 of the *Land Title Act*, RSBC 1996, c.250, the Owner covenants as follows:

- (a) the Lands will be developed, occupied and used in accordance with this Agreement;

- (b) the Owner will take all steps necessary hereafter to preserve and maintain and, if and as necessary, restore the portion of the Watercourse situated on the Lands so that rainwater, ground water and other forms of run-off flowing to and originating on the Lands may flow freely onto, from and through the Lands by the Watercourse without material restriction or diversion and so that the Watercourse is conveyed through the Lands and will exit the Lands through the downstream drainage course as it did prior to the date of this Agreement;
- (c) the Owner will not do anything at anytime hereafter with or on the Lands and will not permit any other person to do anything at anytime hereafter with or on the Lands to cause the Watercourse to be blocked or obstructed in any way so as to restrict, limit or block the free flow of any rainwater, groundwater and other forms of run-off flowing onto or from the Lands in and through the Watercourse and the entry and exit location of the Watercourse will not be changed or altered;
- (d) the Watercourse cannot be pumped and should flow through gravity;
- (e) this covenant will be enforceable by injunction;
- (f) in any action to enforce this covenant, the Owner will pay the City for the full amount of its legal expenses actually incurred;
- (g) this covenant will charge and run with the Lands and will be binding upon the Owner and its successors, assigns, trustees, administrators and successors in title to the Lands; and
- (h) the Owner will indemnify the City and its officials, officers, employees and agents and will save them harmless for and from any claim, demand, complaint, judgment or order for any injury, loss, damage or expense suffered, incurred or experienced by any person or entity in connection with this Agreement. This indemnity will survive release or discharge of the Section 219 Covenant given hereby.

## ARTICLE 2 STATUTORY RIGHT OF WAY

2.1 The Owner hereby grants to the City pursuant to Section 218 of the *Land Title Act*, the full, free and uninterrupted right, liberty, easement and statutory right of way, charging the Lands, to enter upon those portions of the Lands the City Engineer considers necessary, with or without men, tools and equipment and supplies in order to inspect the Watercourse and/or to carry out any obligations of the Owner in this Agreement that the Owner fails to fulfill, observe or perform to the satisfaction of the City Engineer. This statutory right of way is necessary for the operation and maintenance of the City's undertaking.

## ARTICLE 3 AMOUNTS OWING TO CITY

3.1 If the Owner fails to carry out its obligations under the terms of this Agreement or any of them, the City may, but will not be obligated to, remedy the default, and the Owner will pay to the City the amounts of any costs the City might thereby incur from time to time, plus a reasonable sum (not

greater than twenty percent (20%) of such costs) as a surcharge for the City's overhead, forthwith after the City delivers to the Owner a written request for payment thereof.

3.2 If the Owner fails to pay to the City any amounts it is required to pay to it pursuant to this Agreement within thirty (30) days after the City delivers to the Owner a written request for payment thereof, such amounts will be considered to be in arrears and thereafter will bear interest at the rate of three percent (3%) per annum above the "Prime Rate" (hereinafter defined), calculated monthly not in advance, from the date due until paid. In this clause, "Prime Rate" means the floating annual percentage rate of interest as established from time to time by the Bank of Montreal, 595 Burrard Street, Vancouver, British Columbia, as the base rate that will be used to determine the rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as the prime rate; provided that if a court declares or holds the Prime Rate to be void or unenforceable for any reason including uncertainty, then the rate of interest payable on amounts in arrears hereunder will be eighteen percent (18%) per annum calculated monthly not in advance, from the date due until paid.

#### ARTICLE 4 EQUITABLE CHARGE

4.1 The Owner hereby grants the City an equitable charge over the Lands as security for the payment of all sums that at any time hereafter may be payable by the Owner to the City pursuant to this Agreement including the indemnity provisions.

4.2 The equitable charge granted to the City herein may be enforced by the appointment of a receiver for the sale of the Lands and will be registered by the Owner as a first registered charge against the Lands subject only to encumbrances held by the City and such exceptions and reservations as contained in the original Crown grant.

4.3 The equitable charge granted to the City herein will survive termination of this Agreement.

#### ARTICLE 5 MISCELLANEOUS

5.1 The Owner hereby releases the City and its elected officials, officers, employees and agents from any and all liability for any loss, injury, damage or expense of any kind that the Owner might experience in connection with this Agreement or the subject matter hereof. This release will survive release or discharge of this Instrument.

5.2 Time is of the essence in respect of this Agreement.

5.3 No waiver in respect of any provision or breach of this Agreement is effective unless it is expressly given in writing, and no such waiver will operate as a waiver in respect of any other provision or breach of this Agreement.

5.4 Nothing in this Agreement affects the Owner's obligations under any other agreement with the City or any law, regulation or bylaw or the City's rights or powers under the *Vancouver Charter* or any other law, regulation or bylaw.

5.5 Any notice given under this Agreement may be well and adequately given if delivered or mailed by prepaid registered mail from any post office in British Columbia to, in the case of the Owner, its mailing address as shown on title to the Lands at the Land Title Office and in the case of the City to:

City of Vancouver  
453 West 12th Avenue  
Vancouver, British Columbia  
V5Y 1V4

Attention: Director of Planning

with copy to Director of Legal Services

or at such other address as the parties or any successor, as the case may be, may from time to time advise by notice in writing. The date of receipt of any such notice will be deemed to be the date of delivery of such notice, if delivered, or on the third business day next following the date of mailing, if mailed as aforesaid, provided that if mailed, should there be, between mailing and the actual receipt of such notice, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, such notice will only be effective if actually delivered.

5.6 Any finding that any part of this Agreement void or unenforceable will not operate to render any other part it to be void or unenforceable.

5.7 The Owner, at its expense, will do everything necessary to ensure that the Section 219 Covenant it gives in this instrument is registered in the Land Title Office against the title to the Lands in priority over all charges and encumbrances as the City may require.

5.8 The Owner agrees that if for any reason the Land Title Office refuses to register the Section 219 Covenant given in this instrument, in this form, the Owner at its expense will execute and tender for registration revised forms of the covenant until registered in a form acceptable to the City.

5.9 This is the entire agreement between the parties concerning the subject matter hereof, and there are no express or implied representations or warranties outside of it upon which either party is entitled to rely in respect of this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement by signing the General Instrument Part I which is a part hereof.

END OF DOCUMENT