

SEWER SERVICES AGREEMENT

THIS AGREEMENT dated for reference the 26 day of February, 2021
BETWEEN:

SEMIAHMOO FIRST NATION
16049 Beach Road
Surrey, British Columbia, V3Z 9R6

(the "Semiahmoo First Nation")

AND:

CITY OF WHITE ROCK
15322 Buena Vista Avenue
White Rock, British Columbia, V4B 1Y6

(the "City")

THIS AGREEMENT WITNESSES that for and in consideration of the mutual promises and covenants set out in this Agreement the parties covenant and agree each with the other as follows:

PART 1 – DEFINITIONS AND INTERPRETATION

1.1 In this agreement:

- (a) "Agreement" means this Agreement include all Schedules hereto, as amended by the parties in writing from time to time;
- (b) "*Community Charter*" means the *Community Charter*, SBC 2003, c 26, as amended or re-enacted from time to time during the Term of this Agreement;
- (c) "Connection" means the works at the boundary of the Reserve and the City connecting the Services to the Extensions, and includes fixtures and equipment, such as a back-flow prevention device or similar device, that they are consistent with the City's *Sewer Services Bylaw*;
- (d) "Director of Financial Services" means the City's Director of Financial Services appointed by the Council of the City or any designate or representative appointed by the City or the Director of Financial Services;
- (e) "Director of Engineering and Municipal Operations" means the City's Director of Engineering and Municipal Operations appointed by the Council of the City or any designate or representative appointed by the City or the Director of Engineering and Municipal Operations;
- (f) "Dispute Resolution Process" means the processes outlined in Part 15 of this Agreement;

- (g) “Engineering Standards” means:
- (i.) the standards relating to sewer systems set out in the City’s *Sewer Service Bylaw*, modified as necessary by the Director of Engineering and Municipal Operations and approved by City Council, acting reasonably, to apply to the supply of sewer service on the Reserve;
 - (ii.) any variances or equivalencies to the City’s *Sewer Service Bylaw*, approved by the Director of Engineering and Municipal Operations and City Council on a case-by-case basis, such variances and equivalencies not to be unreasonably refused;
 - (iii.) MMCD;
 - (iv.) other standards agreed upon in writing by the parties; or
 - (v.) standards established in accordance with this Agreement as a result of the dispute resolution process under Part 15;
- (h) “Environmental Standards” means those standards necessary and desirable to comply with all enactments and requirements of governmental authorities with respect to the natural environment and to protect the water, air, earth, flora and fauna in and on the City, the Reserve and adjacent Lands and waters;
- (i) “Extension” means the Semiahmoo First Nation’s system of sewer mains and pipes, pumps and ancillary works and facilities on the Reserve owned and operated by the Semiahmoo First Nation to provide sewer service to the Reserve in accordance with this Agreement;
- (j) “Force Majeure” means an act of God, act of Canada’s enemies, sabotage, war, blockades, insurrections, riots, epidemics, lightning, earthquakes, floods, storms, fires, washouts, nuclear and radiation activity or fallout, arrests and restraints of rulers and people, civil disturbances, explosion, expropriation, or any act, omission or event whether of the kind enumerated in this definition or otherwise not within the control of a party, which by the exercise of reasonable due diligence, the party could not have prevented;
- (k) “Land” means “land” and ‘improvements’ as defined in the *Assessment Act*, RSBC 1996, c 20;
- (l) “Lessee” means a person who enters into a Lease with the Semiahmoo First Nation in respect of any part of the Reserve;
- (m) “Liquid Waste Management Plan” means the Integrated Liquid Waste and Resource Management Plan of Metro Vancouver;
- (n) “*Local Government Act*” means the *Local Government Act*, RSBC 2015, c 1;

- (o) “MMCD” means the Master Municipal Construction Documents regarding Master Municipal Specifications and Reference Specifications (white pages) and Drawings (green pages), not including the MMCD General Conditions, Procurement or Contract Management (pink pages);
- (p) “Reference Date” means the Reference Date of this Agreement set out at the top of page 1 of this Agreement;
- (q) “Reserve” means the Semiahmoo First Nation Reserve;
- (r) “Sanitary Sewer Frontage Fee” means the equivalent amount of the fee per meter of frontage charged pursuant to the *White Rock Sewer Frontage Tax Bylaw, 1995, No 1440*, as amended or replaced from time to time, and further described in Schedule “A” of this Agreement;
- (s) “Services” means the City’s system of mains and pipes, pumps and ancillary works and facilities owned and operated by the City to provide sewer service to inhabitants and users throughout the City;
- (t) “Sewer Services Agreement Monitoring Committee” means the Committee established by Part 16 of this Agreement;
- (u) “*Sewer Services Bylaw*” means the City’s sewer services bylaws, including the Sewer Connection and Rental Charges Bylaw, as amended or replaced from time to time;
- (v) “Term” means the term set out in Part 13 of this Agreement;
- (w) “Unit” means every building, structure or improvement within the Reserve connected to or that otherwise uses the sewer service supplied under this Agreement, which Unit is constructed, installed, erected or created as of the date of this Agreement and is connected to or that otherwise uses the sewer service as of the date of this Agreement;
- (x) “User Fees” means the sanitary sewer service user fees, also referred to rental charges applicable to the Units billed under Schedule “B” of the *Sewer Services Bylaw* and the Sanitary Sewer Frontage Fees, and
- (y) “Year” means calendar year.

1.2 In this Agreement:

- (a) the headings and captions used in this Agreement are for convenience only and do not form part of this Agreement and will not be used to interpret, define or limit the scope or intent of this Agreement or any of its provisions;
- (b) a reference to a statute includes every regulation made under the statute, all amendments to the statute or to the regulation in force from time to time, and any statute or regulation that supplements or supersedes the statute or the regulation;

- (c) a word importing the masculine gender includes the feminine or neuter, a word importing the singular includes the plural, and in each case, vice versa;
- (d) a reference to an approval, authorization, consent, waiver or notice means written approval, authorization, consent, waiver or notice; and
- (e) the provisions of the *Interpretation Act*, RSBC 1996, c 238 shall be deemed to apply to this Agreement as though it were an enactment of the City.

1.3 Schedule “A” – “Calculating User Fees and Sanitary Sewer Frontage Fees for Existing Connections” is attached and forms part of this Agreement.

PART 2 – SUPPLY OF AND PAYMENT FOR SEWER SERVICES

PROVISION OF SEWER SERVICES

- 2.1 The City will provide the sewer service from the City Services to the following Unit on the Reserve commencing on the reference date of this Agreement:
- (a) The Units located at 15782 8th Avenue, Surrey, BC,.
 - (b) The Units located at 15622 8th Avenue, Surrey, BC., and
 - (c) The Units located on 15800 8th Avenue, Surrey, BC.

QUALITY OF SEWER SERVICE

- 2.2 Subject to this Agreement, the quality of the sewer service to be provided by the City under this Agreement will be substantially the same as the quality of sewer service provided by the City to the similar users within the City. Subject to this Agreement, the City is not obliged to provide sewer service at a greater level or degree of quality than the level or degree to which the same sewer service is provided within the City. The maximum annual quantity of sewer service to the Reserve is limited to the quantity or flow provided during the period January 1, 2017 through December 31, 2017 to the Units described in Schedule A. The City makes no representation or warranty that the level or degree of sewer service provided under this Agreement will be maintained or continued to any standard, other than as stated expressly herein. Semiahmoo First Nation acknowledges and agrees that there may be from time to time interruptions or reductions in the Services and therefore in the supply of sewer services to the Reserve, and that the City will not be held liable for any losses, costs, damages, claims or expenses arising from or connected with a temporary interruption or reduction in the level of a Service provided under this Agreement. If in the future the Semiahmoo First Nation seeks additional quantities of sewer service under this Agreement, then the Semiahmoo First Nation may request the City to amend this Agreement to provide additional quantities of sewer service. [For certainty, this section is without prejudice to the respective positions of the parties regarding the ownership or beneficial ownership of land the title of which is registered in the Land Title Office in the name of the Burlington Northern Santa Fe Railway].

PAYMENT

- 2.3 It is a fundamental term of this Agreement that the Semiahmoo First Nation make all payments for sewer service as required by this Agreement.
- 2.4 The Semiahmoo First Nation must pay to the City:
- (a) User Fees payable pursuant to section 2.8;
 - (b) other fees and charges that would be applicable under the City's *Sewer Services Bylaw*, including the Accounts Receivable Administrative Fee on Billable Services be charged; and
 - (c) penalties in respect of arrears of payments owing under this Agreement payable at the rates and according to the terms as set out in the *Sewer Services Bylaw*, as amended or re-enacted from time to time;

provided that the frequency and timing for any of the aforementioned payments may be changed by the City as it decides necessary in its sole discretion and for greater certainty, the City may require all amounts payable under this Agreement to be paid on the same terms and at the same times as if payable for similar services provided within the City of White Rock.

- 2.5 If the Semiahmoo First Nation is more than 6 months late in making any payment owing to the City under section 2.3 then the City may at its election give the Semiahmoo First Nation one year's notice of default, setting out the amounts and interest owing and if within the one year after delivery of the notice the Semiahmoo First Nation does not make full payment, then, without prejudice to any other remedy available to it at law or in equity, the City may on further written notice to the Semiahmoo First Nation terminate this Agreement. Provided that the running of the notice shall be suspended, and this Agreement may not be terminated, if notice has been given under Part 15 until such time as the Dispute Resolution Process has concluded.
- 2.6 If the Semiahmoo First Nation and the City cannot agree on an amount to be paid to the City under this Agreement, the matter may be resolved under Part 15 on the basis of this Agreement.
- 2.7 The City must make available at the request of the Semiahmoo First Nation the calculation and factors that substantiate the fees.

METHOD OF PAYMENT

- 2.8 Without limiting section 2.4, the Semiahmoo First Nation must pay to the City the Sanitary Sewer User Fees for the connections at 15782 8th Avenue, Surrey, BC, 15622 8th Avenue, Surrey, BC and 15800 8th Avenue in Surrey, BC, in the following manner:
- (a) the User Fees will be calculated pursuant to the *Sewer Services Bylaw* and billed annually.

EFFECT OF NEW LAWS AND TREATY

- 2.9 If any laws or regulations of Canada and British Columbia having the force of law are promulgated, amended or repealed, or the Semiahmoo First Nation enters into a legally binding treaty with Canada and British Columbia, the effect of which is that substantial portions of the Agreement are no longer effective or incapable of being performed in the opinion of the Semiahmoo First Nation or the City, acting reasonably, in that event the process set forth in section 2.10 will be undertaken immediately upon either the Semiahmoo First Nation or the City becoming aware of the laws or regulations of Canada or British Columbia.
- 2.10 The Semiahmoo First Nation and the City agree to use their reasonable best efforts to negotiate such amendments to this Agreement as are necessary to mitigate the effects of the laws, regulations referred to in section 2.9. To this end, the parties will meet commencing within two months of either the Semiahmoo First Nation or the City becoming aware of such laws or regulations coming into force and such meetings will continue on a regular basis. Should negotiations fail to result in an agreement being reached within one year of the date of the first meeting, either the Semiahmoo First Nation or the City shall have the option of giving the other one year's notice of termination of this Agreement.

PART 3 - SERVICES AND CONNECTIONS

- 3.1 The City will provide the sewer services to the Reserve, as required by section 2.1, except as otherwise agreed by the parties.
- 3.2 Despite section 3.1, nothing in this Agreement obligates the City to provide sewer services to any building, structure or use on the Reserve that is not a Unit as of the Reference Date of this Agreement.
- 3.3 Subject to section 2.2, the Semiahmoo First Nation will at its own cost pay to the City costs incurred by the City, to repair, maintain or replace the City's Services to the boundary line of the Reserve that are required solely for the purposes contemplated by this Agreement.
- 3.4 The Semiahmoo First Nation must provide for and pay for operations, flushing, maintenance and repairs in relation to the Nation's sewer services, if these matters arise or occur outside of the City boundaries.
- 3.5 Without limitation:
- (a) the Semiahmoo First Nation owns the works comprising the Extensions located on the Reserve; and
 - (b) the Semiahmoo First Nation must not connect or allow a person to connect to the Services except as expressly permitted under this Agreement.
- 3.6 The Semiahmoo First Nation agrees to indemnify and hold harmless the City from and against any claims or actions against the City by the Province of British Columbia if a court of competent jurisdiction determines that Semiahmoo First Nation has or is acting in breach

of this Agreement or a provincial or federal enactment in relation to the Semiahmoo First Nation connection to the City system or the Extensions.

PART 4 – FOLLOWING CITY ORDERS, POLICIES, AND BYLAWS

- 4.1 The Semiahmoo First Nation must require that every person on the Reserve who uses the sewer services supplied under this Agreement acts in accordance with orders, policies or bylaws made by the City or Metro Vancouver with respect to the sewer service, including orders, policies or bylaws respecting sewer system use restrictions made by the Director of Engineering and Municipal Operations or the City Council which would apply if the Development or sewer system use were on Land subject to the jurisdiction of the City.
- 4.2 If the Director of Engineering and Municipal Operations, City Council or Metro Vancouver amends orders or bylaws referred to in section 4.1, the Semiahmoo First Nation must make reasonable efforts to consider amending its bylaws to be consistent with the orders or bylaws referred to in section 4.1. The City may enforce this section 4.2 by referring the matter to the monitoring process under Part 16 or dispute resolution under Part 15.
- 4.3 The Semiahmoo First Nation must enforce its bylaws in relation to the matters referred to in sections 4.1 and 4.2.

PART 5 - ENVIRONMENTAL PROTECTION

- 5.1 The Semiahmoo First Nation and the City will consult on the desirability of harmonizing their respective bylaws so that all users of the Extensions on the Reserve comply with the same requirements, restrictions and orders with respect to sewer use as do users within the City.
- 5.2 The City and Semiahmoo First Nation will cooperate in an effort to resolve any issues relating to harmonization of the parties' bylaws, including through use of the mechanisms and process outlined in Part 15 and Part 16.

PART 6 - INSPECTION AND REPAIR

INSPECTION AND REPAIR

- 6.1 The Semiahmoo First Nation must inspect and maintain the sewer connection from the reserve to the mainline sewer, from time to time as required by good engineering practices. The Director of Engineering and Operations will approve the works on City property.
- 6.2 If the connection on City property must be replaced or repaired the City will install or fix the connection on City property and the costs will be paid for by Semiahmoo First Nation.
- 6.3 The Semiahmoo First Nation must comply with all directions of the Director of Engineering and Municipal Operations concerning the Extensions and Connection, including repairing, altering, maintaining or interrupting service to a Unit as directed by the Director of

Engineering and Municipal Operations, to Engineering Standards, in a timely manner. The Semiahmoo First Nation shall use their best reasonable efforts to implement these requests at its sole cost.

- 6.4 Without limiting section 6.1, if the quantity of sewage flow from Units on the Reserve increases due to inflow and infiltration or the condition of a Connection, the Semiahmoo First Nation shall repair or replace the subject portion of the Extensions or Connections.
- 6.5 The City shall not be liable for any costs, damages, loss or claims, or any consequential loss, arising from or due to failure of the Semiahmoo First Nation to fulfill its obligations under this Part 6, and the City has no responsibility or liability for the repair, maintenance, replacement, alteration or modification of the Extensions and Connection.
- 6.6 The City may at any time enter on the Reserve without impediment or charge for the purposes of:
 - (a) inspecting the Extensions and Connection; or
 - (b) confirming the number of Units to be charged under this Agreement.

GENERAL

- 6.7 In an emergency, the Semiahmoo First Nation will immediately, without a prior request by the Director of Engineering and Municipal Operations or the City, repair or interrupt the use of the Extensions and Connections, or take other reasonable steps to limit any immediate danger to people or property with respect to the sewer service supplied under this Agreement. In the event the Semiahmoo First Nation fails to do so, the Director of Engineering and Municipal Operations has the right, but not the obligation, to enter on the Reserve, to take such steps as the Director of Engineering and Municipal Operations deems appropriate, and the Semiahmoo First Nation must pay all reasonable costs incurred by the City as a result, including its administrative, supervisory, engineering, legal and design costs which the City will evidence in writing.
- 6.8 Without limiting section 6.5, if any blockage or backup occurs in the Extensions, the Semiahmoo First Nation shall retain the services of a qualified contractor to locate and to CCTV-camera the subject portion of the Extensions, Connections or City works to the mainline sewer. If the CCTV video discloses that the cause is in the works outside of the Reserve, the Semiahmoo First Nation shall promptly deliver a copy of the CCTV video to the City's Director of Engineering and Municipal Operations, in which case the City will review and determine the cause of the blockage. If the CCTV reveals there is a repair needed on City property the City will reimburse the Semiahmoo First Nation for the reasonable fee of the CCTV video contractor, and such case the Semiahmoo First Nation shall promptly clear the blockage and the City shall repair the damaged or blocked City works. If the CCTV discloses the break is on the Reserve, the Semiahmoo First Nation at its sole cost shall promptly clear the blockage and shall repair the damaged or blocked works.

- 6.9 The Semiahmoo First Nation shall provide in every agreement it makes with a Lessee or other occupier of the Reserve that every obligation of the Semiahmoo First Nation under Parts 3 through 6 are also an obligation of the Lessee or occupier to the City.
- 6.10 The Semiahmoo First Nation shall assume full responsibility for all federal, and applicable provincial, sewage quality regulations and reporting requirements in respect of sewer service on the Reserve beyond the Connection.
- 6.11 All Semiahmoo First Nation obligations under this Agreement to inspect, repair, maintain, replace or otherwise deal with the Extensions or Connections to the mainline sewer shall be at the sole cost of the Semiahmoo First Nation.

PART 7 - REPRESENTATIONS, WARRANTIES AND COVENANTS

- 7.1 The Semiahmoo First Nation and the City represent and warrant to each other and covenant with each other that
- (a) they have the legal capacity and power to enter into this Agreement and comply with and perform every term and condition of this Agreement;
 - (b) all necessary corporate proceedings have been taken to authorize each party to enter into this Agreement and to execute and deliver this Agreement; and
 - (c) this Agreement has been properly executed and delivered.

PART 8 - GENERAL RIGHT OF THE CITY TO ACT

- 8.1 If the Semiahmoo First Nation fails to make any payment under this Agreement when due, or if the Semiahmoo First Nation fails to fulfill any obligation under this Agreement, then, subject to the terms and conditions of this Agreement, the City may take such actions as it deems necessary.
- 8.2 The rights, powers and remedies of the City provided under section 8.1 are cumulative and the exercise of enforcement of any right or remedy under this Agreement does not preclude the exercise or enforcement by the City of any other right or remedy under this Agreement or which the City is otherwise entitled by law to enforce.

PART 9 - INTERRUPTION OF SERVICE

- 9.1 Without prejudice to any other right or remedy the City may have, the City may, at its sole discretion, and without terminating this Agreement, interrupt the provision of sewer service to the Reserve or to the Unit within the Development if:
- (a) within a reasonable time period specified by the Director of Engineering and Municipal Operations the Semiahmoo First Nation fails to comply with the request of the Director of Engineering and Municipal Operations which has been given under this Agreement, or if full compliance is not possible for reasons beyond the Semiahmoo First Nation's control, the Semiahmoo First Nation cannot meet its obligation in

relation to the request of the Director of Engineering and Municipal Operations with a plan and schedule of compliance and to proceed diligently with the plan in accordance with the schedule;

- (b) the Semiahmoo First Nation fails to pay any of the costs, fees or other amount payable under this Agreement, within 60 days of written notice to the Semiahmoo First Nation;
- (c) the Semiahmoo First Nation connects or permits the continued connection of an Extension so as to provide sewer service on the Reserve in a manner that contravenes this Agreement and fails to remove the connection within 60 days of written notice to discontinue the connection or use;
- (d) the Semiahmoo First Nation fails in any significant way to comply with its obligations as set out in this Agreement within 60 days of written notice of the failure;
- (e) the Semiahmoo First Nation fails to comply with the sanitary sewer restrictions or other regulations or requirements under Part 4, but only if the City has provided at least 7 days' written notice and the Semiahmoo First Nation has failed to comply; or
- (f) the Director of Engineering and Municipal Operations, acting reasonably, decides that interruption is necessary for public health or safety reasons and, except in the case of an emergency, provides at least 10 days' written notice to the Semiahmoo First Nation.

9.2 The City may, in accordance with this Agreement, direct the Semiahmoo First Nation in writing to interrupt the supply of sewer service by way of interruption to an Individual Unit. If the Semiahmoo First Nation does not so interrupt the provision of the sewer service within a reasonable time, the City may interrupt the provision of sewer service to the Reserve and for that purpose the Director of Engineering and Municipal Operations may enter on the Reserve and make the requested interruptions to the Units and the Semiahmoo First Nation shall pay all reasonably related costs incurred by the City.

9.3 Before directing the interruption of service the City must provide the following written notice to the Semiahmoo First Nation:

- (a) in the case of an emergency, no written notice in advance if a phone call is made to the Semiahmoo First Nation Administrator or his or her designate;
- (b) in the case of a violation of sanitary sewer restrictions or other regulations relating to section 4.1 or failure to implement and enforce a bylaw under section 4.2, at least 2 days;
- (c) in the case of a health or public safety issue that is not an emergency, at least 10 days; and
- (d) for all other matters, at least 60 days.

9.4 In any instance where the City or the Director of Engineering and Municipal Operations has requested or caused an interruption of sewer service, the City or the Director of Engineering

and Municipal Operations will restore or permit the restoration of the sewer service immediately after the situation that led to the interruption has been resolved.

PART 10 - FORCE MAJEURE

10.1 No party will be liable for its failure to perform any of its obligations under this Agreement due to Force Majeure or non-availability of materials or transportation.

PART 11 – INDEMNITIES

11.1 The Semiahmoo First Nation releases, indemnifies and saves harmless the City and its elected officials, officers, employees, contractors, assigns and agents from and against all claims, demands, actions, suits, loss, damage, costs (including legal costs), fines, penalties, charges and expenses (in this section collectively "Claims") which the City or the Semiahmoo First Nation may incur, suffer or be put to arising out of or in connection with this Agreement or the provision of sewer service under this Agreement, including:

- (a) those arising out of or in connection with any loss or damage to persons (including bodily injury and death) or property as a result of or in connection with, directly or indirectly, this Agreement;
- (b) economic losses sustained because of interruption of the provision of sewer service, inadvertently or advertently, or in accordance with this Agreement;
- (c) those arising from a breach by the Semiahmoo First Nation of any of its agreements, representations, warranties or covenants set forth in this Agreement; and
- (d) a claim brought by a resident of the Reserve or member of the Semiahmoo First Nation respecting the sewer service;

provided, however, that this obligation to indemnify the City and the Semiahmoo First Nation shall not apply to Claims to the extent, if any, to which they may arise from the wrongful or negligent act or failure to act of the City or directly from any breach of this Agreement by the City.

11.2 The indemnities in section 11.1:

- (a) are subject to Part 10 (Force Majeure), and
- (b) survive the expiration or termination of this Agreement.

PART 12 - EFFECTIVE DATE

12.1 This Agreement takes effect as of the Reference Date.

PART 13 - TERM AND TERMINATION

13.1 Subject to section 13.3, the Term of this Agreement is for the period commencing on the Reference Date and terminating December 31, 2025.

- 13.2 The Semiahmoo First Nation may renew this Agreement for three (3) additional terms of five years each by delivering written notice to the City of the renewal at least six months prior to the end of the Term or each extended term, as applicable.
- 13.3 Without limiting section 13.2, the parties may terminate or extend this Agreement by mutual agreement.
- 13.4 The City may terminate this Agreement by providing at least one year's written notice to the Semiahmoo First Nation if:
- (a) there has been a breach of this Agreement that has not been resolved through the dispute resolution process set out in Part 15;
 - (b) there has been an interruption of the water under Part 9 as a result of an act or omission of the Semiahmoo First Nation and the Semiahmoo First Nation has failed to comply with an obligation further to a request of the Director of Engineering and Municipal Operations relating to the interruption within 60 days of the order; or in cases where full compliance is not possible for reasons beyond the Semiahmoo First Nation's control, the Semiahmoo First Nation has failed to provide the Director of Engineering and Municipal Operations with a plan and schedule of compliance and to proceed diligently with the plan and the schedule;
 - (c) the City's planning, engineering or infrastructure concerns relating to the provision of the water under section 6.2 of this Agreement or otherwise have not been resolved through the dispute resolution process set out in Part 15; or
 - (d) if the Semiahmoo First Nation is more than 6 months late in making any payment owing to the City under section 2.2.
- 13.5 Subject to the terms set out in Sections s.13.1 through s.13.3, no party will terminate the Agreement during any attempt to resolve issues through the dispute resolution process set out in Part 15.

PART 14 – SECURITY

- 14.1 Security for payment is not required under this Agreement.

PART 15 - DISPUTE RESOLUTION

- 15.1 If the parties to this Agreement are unable to agree on the interpretation or application of any provision in the Agreement, or are unable to resolve any other issue relating to this Agreement, the parties agree to the following process in the order it is set out:
- (a) the party initiating the process will send written notice to the other party;

- (b) the parties will promptly, diligently and in good faith take all reasonable measures to negotiate an acceptable resolution to the disagreement or dispute;
- (c) if the parties are unable to negotiate a resolution under paragraph (b) within 30 days, any party may refer the matter to:
 - (i.) the Sewer Services Agreement Monitoring Committee for administrative resolution;
 - (ii.) settlement by a peer panel composed of three persons selected from a list agreeable to both parties as of the Reference Date of this Agreement, and revised from time to time under Part 16 of this Agreement, the panel must give written reasons for its decision if this is requested by the proposing City or Semiahmoo First Nation before the panel retires to make its decision;
 - (iii.) conciliation, using the services of a conciliator agreeable to both parties.

15.2 If the parties are unable to negotiate a resolution within 60 days of the date the written notice was sent advising of the dispute, the parties may request the assistance of a skilled mediator agreed to by the parties within 30 days written notice of a request to appoint a mediator by any party, failing which the mediator will be appointed by the B.C. International Commercial Arbitration Centre (BCICAC), and unless the parties agree otherwise, this mediation will follow BCICAC rules and will terminate 60 days after the appointment of the mediator.

15.3 If the parties are unable to resolve the dispute under section 15.2 the parties agree to refer the matter to a single arbitrator under the *Commercial Arbitration Act* or any successor legislation and to accept the arbitration ruling as final and binding. If the parties are unable to agree on a single arbitrator within 60 days following the end of mediation, the BCICAC will appoint an arbitrator. The arbitration will follow the rules of the Commercial Arbitration Act unless the parties agree otherwise.

15.4 Unless otherwise agreed by the parties or ordered by an arbitrator, each party will pay an equal share of the costs for the dispute resolution process.

15.5 Despite any other provision of this Agreement, no party will interrupt or terminate this Agreement during any attempt to resolve issues through the dispute resolution process set out in this part.

PART 16 - REVIEW AND MONITORING COMMITTEE

16.1 At least annually or as often the parties may otherwise agree, the parties shall meet to review the terms and conditions of this Agreement, to recommend amendments to this Agreement, and to negotiate and agree on improved ways of implementing this Agreement.

16.2 The meeting referred to in section 16.1 will be a government to government meeting between the Councils of the parties. The Councils may delegate the implementation of the decisions made by the governments.

- 16.3 There is established a Sewer Services Agreement Monitoring Committee to:
- (a) review changes in service needs, capacity or delivery;
 - (b) facilitate interpretation and implementation of this Agreement to mitigate potential service disruptions;
 - (c) recommend amendments to the Agreement; and
 - (d) initiate review of the Agreement at least one year prior to the expiration of every five-year period during the Term of this Agreement.
- 16.4 The Agreement Monitoring Committee will comprise the City Chief Administrative Officer and Semiahmoo First Nation Administrator, or their designates, the Director of Engineering and Municipal Operations and the Semiahmoo First Nation Director of Public Works or their designates and the City's Chief Financial Officer.

PART 17 – GENERAL

- 17.1 This Agreement enures to the benefit of and is binding on the parties and their respective successors and permitted assigns.
- 17.2 Except as specifically provided, nothing in this Agreement affects the rights and powers of either the City or the Semiahmoo First Nation in the exercise of their functions, rights, power or authority under any enactments, which may be fully and effectively exercised as if this Agreement had not been made.
- 17.3 Except as specifically provided, this Agreement shall not be construed so as to prejudice or in any way affect the Semiahmoo First Nation's interest in and over the Reserve or provide, in any manner, the City with any jurisdiction it otherwise does not have over the Reserve.
- 17.4 Each party executes, or cause to be executed, such further and other documents and instruments, and do, or cause to be done, such further and other things as they are authorized to do and as may be necessary to implement and carry out the intent of this Agreement.
- 17.5 This Agreement contains the entire agreement between the parties and supersedes all prior written and oral communication with respect to the sewer service that is subject of this Agreement.
- 17.6 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia, or, to the extent that matters of paramount federal jurisdiction are involved, the laws of Canada.
- 17.7 Neither this Agreement nor any part of it may be assigned by any party without the consent of both the Semiahmoo First Nation and the City.


17.8 No amendment or variation of the terms, conditions, warranties, covenants, agreements or undertakings set out in this Agreement will be of any force or effect unless the same is reduced to writing, and duly executed by all of the parties.

17.9 No consent or waiver, express or implied, by any Part of any breach or default by another under this Agreement will:

- (a) be valid unless it is in writing and stated to be a consent or waiver pursuant to this section;
- (b) be relied on as a consent to or waiver of any other breach or default of the same or any other nature;
- (c) constitute a general waiver under this Agreement; or
- (d) eliminate or modify the need for a specific consent or waiver under this section in any other or subsequent instance.

17.10 Time is of the essence in the performance of each obligation under this Agreement.

17.11 Each provision of this Agreement is intended to be severable, and accordingly:

- (a) the unenforceability or invalidity of any particular provision under any applicable law will not affect the validity of any other provision, except that if, on the reasonable construction of this Agreement as a whole, the other provision is expressly stated, or is by reasonable implication intended by the parties, to be dependent on the validity and enforceability of the particular provision, the other provision will be deemed also to be invalid or unenforceable;
- (b) if any provision of this Agreement is invalid or unenforceable, the balance of this Agreement will be construed and enforced as if all invalid or unenforceable provisions and all provisions so deemed to be invalid or unenforceable were not contained in this Agreement; and 

SCHEDULE A
CALCULATING USER FEES AND SANITARY SEWER FRONTAGE FEES FOR
EXISTING CONNECTIONS

Property Address	Number of Commercial Units Charged Unit Fees Under City's Sewer Services Bylaws
15782 8 th Ave, Surrey, BC	14 Units
15800 8 th Avenue, Surrey, BC	8 Units
15622 8 th Avenue, Surrey, BC	5 Units