

**PORT MOODY**  
CITY OF THE ARTS

**Robinson Puche**

Infrastructure Engineering Technologist  
Development Services

Tel 604.469.4523  
Fax 604.469.4533  
rpuche@portmoody.ca

100 Newport Drive  
Port Moody, BC, V3H 5C3, Canada  
[www.portmoody.ca](http://www.portmoody.ca)

---

July 20, 2016

Email: [greg@dureault.com](mailto:greg@dureault.com)

File No. 0580-20-16-18

Greg Dureault  
Barrister & Solicitor  
8652 Commerce Court  
Burnaby, BC V5A 4N6

Dear Mr. Dureault,

**Re: Request for Access to Records under the Freedom of Information and Protection of Privacy Act ("the Act")**

This letter is in response to your request of June 20, 2016 for access to the following information:

- Contract of Purchase and Sale dated November 2001 between the City of Port Moody and School District No. 43 regarding the property located at 1300 David Avenue, Port Moody (PID: 025-214-560).

The records responsive to your request are enclosed. I have not severed any information from these records.

Under Section 52 of the *Act*, you may ask the Information and Privacy Commissioner to review the City of Port Moody's response to your request.

You have 30 days from receipt of this letter to request a review by writing to:

Office of the Information and Privacy Commissioner  
PO Box 9038, Stn Prov Govt  
Victoria, BC V8W 9A4  
Tel: 250-387-5629 Fax: 250-387-1696

If you wish to request a review, please provide the Commissioner's office with:

1. Your name, address, and telephone number;
2. The File No. quoted at the top of this letter;
3. The type of request that you made to the public body, i.e., access, correction, fee complaint, time limit complaint, etc., or a copy of the request;
4. A copy of the City of Port Moody's decision; and
5. The reasons or grounds upon which you are requesting the review.

If you have any questions about this letter, please contact me at [ttakahashi@portmoody.ca](mailto:ttakahashi@portmoody.ca) or 604-469-4539 prior to initiating a formal review process with the Office of the Information and Privacy Commissioner. You may be transferred to the Information and Privacy Commissioner's Office free of charge by calling Enquiry BC at 604-660-2421 in Vancouver or at 1-800-663-7867 outside Victoria and Vancouver.

Sincerely,



Tracey Takahashi  
Deputy Corporate Officer  
Freedom of Information and Protection of Privacy Coordinator

Encl.

## Contract of Purchase and Sale

THIS AGREEMENT dated the 2nd day of November, 2001

BETWEEN:

**CITY OF PORT MOODY**, City Hall, 100 Newport Drive, Port Moody, BC  
V3H 3E1

(the "Vendor")

AND:

**SCHOOL DISTRICT NO. 43**, 550 Poirier Street, Coquitlam, BC V3J 6A7

(the "Purchaser")

WHEREAS:

A. The Purchaser has agreed to purchase the Property, as defined below, from the Vendor and the Vendor has agreed to sell the Property to the Purchaser on the terms and conditions set out herein;

B. This Contract of Purchase and Sale is subject to satisfaction or waiver of the conditions precedent referred to and set out herein on or before the specified date.

NOW THEREFORE, in consideration of TEN (\$10.00) DOLLARS and other good and valuable consideration now paid by each of the parties to the other (the receipt and sufficiency of which is acknowledged) and of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

## 1. Definitions

The Parties agree that the following terms shall have the following meanings in this Agreement:

- (1) **"By-law 2179 Agreement"** means the Amendment and Assignment Agreement between Her Majesty the Queen in Right of the Province of British Columbia, represented by the Minister of Environment Lands and Parks the Vendor and Park Lane Homes Ltd. dated November 30, 1993 and executed pursuant to the City of Port Moody By-law 2179.
- (2) **"Bylaw 1819 Agreement"** means the Termination and Land Exchange Agreement between the Vendor and Carma Developments Ltd. dated August 8, 1996, executed pursuant to City of Port Moody By-law No. 1819 and amendments thereto.
- (3) **"Closing Date"** means the date which is 30 days after satisfaction or waiver of the final condition precedent set out in section 4 herein or such other date as may be mutually agreed to.
- (4) **"Lands"** means those lands and premises legally defined as:

Parcel Identifier: 004-885-651

Lot B, Except:

Firstly: Part Subdivided By Plan LMP12427;

Secondly: Part Dedicated Road On Plan LMP15859;

Thirdly: Part Dedicated Road On Plan LMP16875

Fourthly: Part Subdivided By Plan LMP47822

District Lots 349 and 350, Group 1, New Westminster District, Plan 72621.

(5) **"Permitted Encumbrances"** mean those charges included in Schedule "B" attached hereto and forming part of this Agreement.

(6) **"Property"** means the portion of the lands as described in Schedule "A" of this Agreement which is comprised of approximately 12.7 acres.

(7) **"Purchase Price"** means the sum of SIX MILLION SIXTY-THREE THOUSAND FIVE HUNDRED AND FORTY-FIVE DOLLARS (\$6,063 545.00).

## 2. Purchase and Sale

### 2.1 The Property

The Purchaser agrees to purchase from the Vendor, and the Vendor agrees to sell to the Purchaser, on the terms and conditions contained in this Agreement, the Property, subject to the Permitted Encumbrances.

The Purchaser and the Vendor agree that the Property shall be created by the subdivision of the Lands, with the final area to be established by mutual agreement, subject only to the limit that the Property shall not exceed an area of 12.7 acres.

### 2.2 The Purchase Price

The Purchase Price payable by the Purchaser to the Vendor for the Property shall be subject to the adjustments described in this Agreement and shall be exclusive of GST which, if payable, shall be paid by the Purchaser.

### 2.3 Payment of the Purchase Price


Subject to the adjustments described in this Agreement, the Purchase Price shall be payable by the Purchaser by payment of the balance of the Purchase Price by delivery on the Closing Date in accordance with paragraph 6.

### 2.4 Adjustments

All adjustments with respect to taxes and all other items normally adjusted between a vendor and purchaser on the sale of similar property, including the deposits, shall be made with respect to the Property to and including the Closing Date and those adjustments shall be compiled into a single set of adjustments for the Property. Taxes will be adjusted on the basis that current year taxes will be 10% higher than the previous years' taxes but the parties will readjust ten days after determination of the actual current year taxes.

### 2.5 Deposits – Payment

The Purchaser shall pay to the Vendor:

- (a) the sum of \$50,000.00 (the  First Deposit") by way of solicitor's trust cheque to the Vendor's solicitor upon the execution of this Agreement to be held in trust in an interest bearing account with a Schedule 1 bank, as stakeholder pursuant to the Real Estate Act, R.S.B.C. 1996 c. 397, as amended (the "Real Estate Act"), on behalf of the parties as their respective interest may appear, pending completion of the sale and purchase of the Property or other termination of this Agreement.

## **2.6 Deposits**

The Deposit plus any accrued interest thereon shall be paid as follows:

- (a) The Deposit plus any interest accrued thereon shall be returned to the Purchaser within three business days if the conditions set out in paragraph 4 herein are not waived or satisfied;
- (b) If the Purchaser shall default in such completion and, provided the Vendor is not otherwise in default hereunder, the Deposit plus any accrued interest thereon shall be paid to the Vendor as full payment on account of damages suffered by the Vendor of any such failure of the Purchaser to complete, such amount being a genuine mutually agreed pre-estimate of the total liquidated and unliquidated damages to be suffered by the Vendor in the event of such default, following which the Vendor will have no further recourse against the Purchaser and this Contract of Purchase and Sale will be at an end;
- (c) If the Vendor shall default in such completion of the sale and purchase, the Deposit, together with any accrued interest thereon, shall be refunded immediately, in full, to the Purchaser;
- (d) If the sale and purchase is completed in accordance with the terms hereof, the Deposit, and any accrued interest thereon shall be credited to the Purchase Price and paid to the Vendor.

## **3. Representations and Warranties**

### **3.1 Vendor's Representations and Warranties**

The Vendor represents and warrants to the Purchaser that:

- (a) the Vendor has the power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, all of which have been duly and validly authorized by all requisite proceedings, has complied with the legal requirements of the Local Government Act regarding the disposition of property and that this Agreement constitutes a legal, valid, and binding obligation of the Vendor in accordance with its terms;
- (b) the Vendor is not aware of any existing or contemplated litigation, cause of action or action by any party in connection with the Property;
- (c) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (d) on the Closing Date, the Vendor shall have title to the Property subject to the Permitted Encumbrances.

The representations, agreements and warranties contained herein shall survive the Closing Date and shall continue in full force and effect for the benefit of the Purchaser and the Vendors, respectively after the Closing Date.

The Vendor covenants and agrees to indemnify and hold the Purchaser harmless from and against any and all claims, actions, causes of action, demands, damages, costs including but not limited to solicitor and client costs, and compensation whatsoever that the Purchaser may incur or suffer as a result of:

- (i) the breach of any of the representations and warranties referred to in this paragraph 3.1, or
- (ii) by any breach or allegations of breach of the Vendor's obligations under Bylaw 2179, or

- (iii) by any breach or allegations of breach of the terms of the Permitted Encumbrances, including costs, on a solicitor and own client basis.

### 3.2

#### **Condition of Property / Environmental**

(a) The Purchaser acknowledges that the Purchaser is purchasing the Property in an "as is, where is" condition and that the Vendor has not made any representations, warranties, covenants or agreements with respect to the condition of the Property, the suitability of the Property for the Purchaser's intended use or any use whatsoever, and in particular without limiting the generality of the foregoing, as to the environmental condition of the Property. The Purchaser further acknowledges that it is the Purchaser's responsibility to satisfy itself with respect to the environmental condition of the Property. The Purchaser acknowledges that the Purchaser is responsible to satisfy itself as to the condition of the Property and to perform such investigations of the Property as the Purchaser considers appropriate in order to satisfy itself as to the environmental condition of the Property. Any remediation of the Property that may be required following the Closing Date or at any time in the future because of the presence of Contaminants in, on or under the Property, including its soils and groundwater, shall be performed by the Purchaser, at the Purchaser's expense, and the Vendor shall have no responsibility whatsoever therefor.

(b) The Purchaser hereby, effective on Closing Date, assumes and shall be responsible for and releases the Vendor and its officers, employees, elected officials and agents from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs and expenses where occurring or caused before, on or after the Closing Date which the Purchaser or any

other person has or may have by reason of any cause, matter or thing whatsoever arising out of or in any way related to environmental liability with respect to or in connection with the Property, including without limitation the presence of Contaminants in, on, under or migrating from the Property. The Purchaser shall indemnify and save harmless the Vendor and its officers, employees, elected officials and agents from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs and expenses whether occurring or caused before, on or after the Closing Date which the Vendor or its officers, employees, trustees, or agents may suffer, incur, be subject to or liable for as a result of any claim brought against any one or more of them by the Purchaser or any other person for any cause, matter or thing whatsoever arising out of or related to environmental liability with respect to or in connection with the Property, including without limitation the presence of Contaminants in, on, under or migrating from the Property.

(c) For the purposes of this Paragraph, "Contaminants" means any explosives, radioactive materials, asbestos material, urea formaldehyde, chlorobiphenyls, hydrocarbon contaminants, underground tanks, pollutants, contaminants, hazardous, corrosive, or toxic substances, special waste or waste of any kind, including without limitation any substance, the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter at any time prohibited, controlled, regulated, or licensed under any laws, regulations, orders, bylaws, permits lawful requirements, standards or guidelines of any federal, provincial or municipal governmental authority with respect to the environment, environment protection or occupational safety and health.

(d) Despite the foregoing, the parties acknowledge and agree that they have retained an Environmental Engineer to prepare and provide to them a site profile in accordance with the Waste Management Act and that said Engineer shall have access to the Property prior to the Closing Date in order to perform such tests and environmental investigations as it deems appropriate and necessary, the cost of which shall be shared equally between both Purchaser and Vendor.

(e) The Purchaser and the Vendor also acknowledge and agree that there may be some septic effluent leachate from adjacent lands within the Village of Anmore onto the Property and the parties shall act reasonably and cooperate with each other to minimize and control any such problems.

### 3.3 Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants as representations and warranties that will be true as of the Closing Date as follows:

- (1) The Purchaser is a body corporate duly incorporated and existing under the laws of British Columbia and duly qualified to purchase and own the Property, and the Purchaser has full power, authority and capacity to enter into this Agreement and carry out the transactions contemplated herein;
- (2) There is no action or proceeding pending or to the Purchaser's knowledge threatened against the Purchaser before any court, arbitration panel, administrative tribunal or agency, which if decided adversely to the Purchaser might materially affect the Purchaser's ability to perform its obligations hereunder; and

- (3) Neither the Purchaser entering into this agreement nor the performance of its terms will result in the breach of or constitute a default under any term or provision of any indenture, mortgage, deed or trust or other agreement to which the Purchaser is bound or subject.

The representations, agreements and warranties contained herein shall survive the Closing Date and shall continue in full force and effect for the benefit of the Purchaser and the Vendors, respectively after the Closing Date.

#### **4**

#### **Conditions**

##### **4.1**

##### **Purchaser's Conditions Precedent**

The obligation of the Purchaser to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being in effect or satisfied on or before December 18, 2001, provided that the parties may by mutual agreement extend such date:

- (1) the Property shall be created by way of subdivision of the Lands as a legal parcel;
- (2) the Purchaser shall have received, reviewed and approved the site profile referred to in paragraph 3.2 herein and a report dealing with the septic effluent leachate referred to in Section 3.2(d);
- (3) the Property shall be re-zoned to the Public/Institutional (P-1) Zone through a joint re-zoning application by the Vendor and the Purchaser provided that the Purchaser acknowledges and agrees that nothing herein shall fetter or restrict City Council of the Vendor in any decisions or actions to be taken or made by it in respect of land use issues;

- (4) The Purchaser shall have received approval from the Ministry of Education to complete the transaction and have obtained a Letter of Authority to register the transfer.

In consideration of \$10.00 non-refundable to be paid by the Purchaser to the Vendor and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Vendor, the Vendor agrees not to revoke its acceptance of the Purchaser's offer contained herein while this Agreement remains subject to any of the foregoing conditions precedent or the condition precedent set out in paragraph 8.3 herein. The parties agree that this agreement will become an unconditional contract for the sale and purchase of the Property forthwith upon satisfaction or waiver of the foregoing conditions precedent. The Vendor agrees to co-operate with the Purchaser in its application for the permits set out in 4.1 above.

#### **4.2 Waiver**

All of the conditions precedent set forth in paragraph 4.1 and 8.3 are for the Purchaser's sole benefit and each may be waived unilaterally by the Purchaser at the Purchaser's election. If the Purchaser does not give the Vendor notice of the satisfaction or waiver of all of such conditions precedent within the time therein provided, then the Purchaser's obligation to purchase the Property will be at an end.

### **5. Risk/Possession**

#### **5.1 The Passing of Risk**

After the Closing Date, the Property shall be at the risk of the Purchaser.

**5.2 Possession**

The Vendor shall deliver possession of the Property to the Purchaser on the Closing Date and completion of the sale and purchase of the Property.

**6. Closing Procedure****6.1 The Closing**

The closing of the purchase and sale will be on the Closing Date.

**6.2 Vendor's Documents**

On or prior to the Closing Date, the Vendor shall deliver to the Purchaser the following:

- (1) a duly executed registrable Form A - Freehold Transfer (the "Transfer") to transfer the Vendor's interest in the Property to the Purchaser, subject to the Permitted Encumbrances;
- (2) the Vendor's Statement of Adjustments;
- (3) such other documents and assurances as may be reasonably required by the Purchaser to give full effect to the intent and meaning of this Agreement.

**6.3 Payment in Trust**

On or before the Closing Date the Purchaser will pay to the Purchaser's solicitors the amount due to the Vendor under paragraph 2.3, as adjusted under paragraph 2.4.

**6.4 Registration**

Forthwith following the payment in paragraph 6.3 and after receipt by the Purchaser's solicitors of the documents and items referred to in paragraph 6.2, the Purchaser will cause the Purchaser's solicitors to file the Transfer in the appropriate land title office for registration.

**6.5 Closing**

Forthwith following the filing referred to in paragraph 6.4 and upon the Purchaser's solicitors being satisfied as to the Purchaser's title to the Property after conducting a post filing for registration check of the property index disclosing only the following:

- (1) the existing title number to the Property;
- (2) the Permitted Encumbrances; and
- (3) pending number assigned to the Transfer;

the Purchaser will cause the Purchaser's solicitors to deliver to the Vendor's solicitor the amount due to the Vendors under paragraph 2.3, as adjusted under paragraph 2.4.

**6.6 Concurrent Requirements**

It is a condition of this Agreement that all requirements of this paragraph 6 are concurrent requirements and it is specifically agreed that nothing will be completed on the Closing Date until everything required to be paid, executed and delivered on the Closing Date has been so paid, executed and delivered and until the Purchaser's solicitors have satisfied themselves as to the Purchaser's titles under paragraph 6.5.

**7. Miscellaneous**

**7.1 Time**

Time shall be of the essence of this agreement and the transactions contemplated in this Agreement notwithstanding the extension of any of the dates under this Agreement.

**7.2 Tender**

Any tender of documents or money may be made upon the party being tendered or upon its solicitors.

**7.3 Notice**

Any notice required or permitted to be given under this Agreement shall be sufficiently given if delivered personally or if sent by prepaid registered mail to the party at its address as shown on the first page of this Agreement, provided that any party shall be entitled to designate another address by giving notice of it to the other party in accordance with the terms of this Agreement. Any notice so mailed shall be deemed to have been received, except during a period of interruption of normal postal service (in which case such notice shall only be effective if actually delivered), on the fourth business day following the date of mailing.

**7.4 Further Assurances**

Each of the parties shall act reasonably and cooperate with the other to fulfill the intent of this Agreement and to that end, at the expense of the other party, execute and deliver all such further documents and do such further acts and things as the other party may reasonably request from time to time to give full effect to this Agreement.

**7.5 Assignment**

Neither the Purchaser nor the Vendor may assign its rights under this Agreement.

**7.6 Non-Merger**

None of the provisions of this Agreement shall merge in the transfer of the Property or any other document delivered on the Closing Date, and the provisions of this Agreement shall survive the Closing Date.

**7.7 Payment of Fees**

Each party shall pay its own legal fees. The Purchaser shall be responsible for all registration fees payable in connection with registration of the transfer of land referred to in paragraph 6.2(1).

**7.8 Goods and Services Tax**

The Purchase Price does not include federal goods and services tax ("GST"). On the Closing Date, the Purchaser will pay to the Vendor, as agent for Her Majesty the Queen in right of Canada, in addition to the Purchase Price, the amount of GST eligible in respect of the transactions contemplated in this Agreement or, if the Purchaser is exempt from or registered for GST purposes on the Closing Date, the Purchaser may self-assess the GST and account directly to Revenue Canada, Excise therefor if the Purchaser provides the Vendor with a certificate signed by an officer of the Purchaser confirming the Purchaser's registration number and the Purchaser's registered or exempt status.

**7.9 Binding Effect**

This Agreement shall enure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, and other legal representatives and, to the extent permitted in this Agreement, their respective successors and assigns.

**7.10 Extended Meanings**

Words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.

**7.11 Headings**

The headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

**7.12 Applicable Law**

This Agreement shall be interpreted in accordance with the laws of British Columbia.

**7.13 Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement and contains all of the representations, warranties, covenants and agreements of the respective parties, and may not be amended or modified except by an instrument in writing executed by all parties. This Agreement supersedes all prior agreements, memoranda, and negotiations between the parties. Despite the foregoing, the Purchaser and the Vendor acknowledge and

agree that a subsequent agreement will be entered into to deal with the joint use of the Community facilities as set out in section 8.4 herein.

## **8. Further Agreements and Obligations**

### **8.1 Construction of Community Use Facilities**

The City will construct the Community Park referred to in the By-law 1819 Agreement and By-law 2179 Agreement and to that end, intends to construct the following community use facilities on the Property and adjacent lands, to the City's standards:

1. Lit, Artificial Turf Field and Running Track
2. Lit, Baseball/Softball Field
3. Fieldhouse/Changeroom Facility
4. Two Tennis Courts
5. Parking
6. Pedestrian and Bicycle Pathways
7. Site Landscaping Features
8. Site Fencing

### **8.2 Purchaser's Payment of Section 286 Development Levies**

In accordance with the City's Bylaw No. 1819 ( Bylaw 1819 Agreement), the Purchaser shall pay all applicable development levies at a rate of \$62,330.00 per acre (calculated in 2001 dollars and to be adjusted in accordance with the Bylaw 1819 Agreement in respect of any payments made in the year 2002 or future years) prior to the City issuing a building permit with respect to any construction of a building or structure on the Property. The Purchaser shall also pay G.V.S. & D.D. levies and any other applicable fees or charges in connection with any construction on the Property.

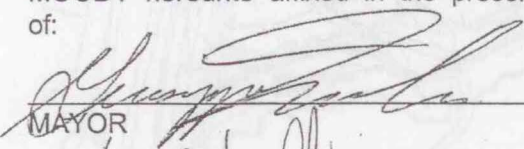
### 8.3 Joint Use Agreement

It is the mutual intention of the parties that the community use facilities to be constructed will be in part on the Property and in part on lands adjacent to the Property and the parties will negotiate in good faith and enter into a joint use agreement on terms to their mutual satisfaction prior to or concurrent with any obligation on the part of the Vendor to construct the community use facilities for the shared use of such facilities on an ongoing basis. The joint use agreement will be substantially in the form of the draft master agreement and facility agreement which are attached hereto as Schedule C, provided that it shall be a further condition precedent that the parties will finalize such agreements on or before the Completion Date.

- 8.4 The Purchaser shall obtain a North Shore Development Authorization permit from the City of Port Moody for the construction of a ~~Senior~~ Secondary School on the Property prior to issuance of a building permit, provided that such authorization shall not unreasonably be withheld.
- 8.5 With respect to the community use facilities described in section 8.1, the Vendor agrees to commence construction by April 1, 2003 and make best efforts to complete construction by August 1, 2004.
- 8.6 The Vendor acknowledges and agrees that if construction of the community use facility is not commenced by the date referred to in paragraph 8.5, unless the parties reach an agreement on an extension, acting reasonably, to refund to the Purchaser upon demand from the Purchase Price the sum of \$250,000.00 together with interest at the 90 day treasury bill rate calculated from the Closing Date until the date the said refund is delivered to the Purchaser.

IN WITNESS WHEREOF the parties have executed this Agreement.

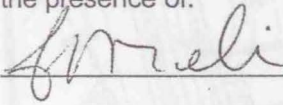
The Corporate Seal of the CITY OF PORT )  
MOODY hereunto affixed in the presence )  
of: )

  
MAYOR )

  
CLERK )

C/S

The Corporate Seal of the SCHOOL )  
DISTRICT NO. 43 was hereunto affixed in )  
the presence of: )



Loreen O'Melinn )  
Secretary - Treasurer )  
School District No. 43 (Coquitlam) )

C/S

Eastward extent to be determined  
Bill Pascoe B.G.L.S. to create 12.7 acre  
site

Oct 30/01

APPENDIX A

12.7 acres to  
this line

SCHEDULE "A"

Heritage Hounstain



**SCHEDULE "B"**Permitted Encumbrances

## 1. COVENANT

Z154593 1986-08-19 13:51 Registered Owner of Charge: City of Port Moody

Z154593 Remarks: Land Title Act Section 215 Inter Alia Part Formerly Parcel "A"  
Plan 67900 Extended By BG326589

## 2. COVENANT

Z154595 1986-08-19 13:52 Registered Owner of Charge: City of Port Moody

Z154595 Remarks: L.T.A. Sec 215 Inter Alia Part Formerly Lot 244 Plan 55527  
Extended By BG326590

**SCHEDULE C**

Draft Master Agreement

BETWEEN:            The City of Port Moody  
  
(hereinafter called the City)

AND: School District No. 43

(hereinafter called the "District")

1. The Local Government Act (Sections 679 and 682) and the School Act (Section 168) permit sharing agreements between School Districts and municipalities for the construction, maintenance, operations or use of facilities for community use.
2. The City, through the Community Services Department, has a mandate to develop, construct, operate, and maintain park and recreation facilities and to organize and administer public recreation programs and services.
3. The City and the School District each acknowledge and agree that they operate under senior government legislative schemes and that any action by either party must be authorized pursuant to that party's relevant authority and without limiting the generality of the foregoing, both the City and the School District agree that this agreement shall not be interpreted to in any way fetter or limit the statutory discretion of the respective parties.

- 
4. The School District has a mandate to construct, operate, and maintain educational facilities that may be used by the community.
  5. It is the wish of the City and the School District to avoid duplication of facilities, land, equipment and programs, and to maximize the use of available facilities to provide optimum benefits for the entire community.

6. The City and the School District have expressed and demonstrated their willingness and ability to work cooperatively in the planning, acquisition, development, and operation of facilities, programs and services.

**THEREFORE:** The parties covenant and agree to the following:

1. With respect to the planning, development, and provision of sites, facilities, programs, and services, the City and the School District will work toward the following goals/objectives whenever possible:
  - \* Resource sharing
  - \* Community involvement and consultation
  - \* Joint planning and integration
  - \* Optimum use
2. Whenever feasible, the City and the School District will make land purchases on contiguous sites and will consult each other on land purchases and sales in such manner as to maintain established policies of conf
3. Wherever new development or changes to existing sites, facilities, programs and services are being considered, both parties agree to contact each other to ascertain the potential for joint interests, and where joint interest exists, shall cooperate in the planning and implementation.
4. This agreement shall be monitored by the Joint City/School Working Committee hereinafter referred to as "Working Committee". The Working Committee has equal representation from the City and the School District. The Working Committee's responsibilities, with respect to this agreement, include:
  - \* Review of the agreement on an annual basis by February 28<sup>th</sup>.
  - \* Resolution of disputes arising from this master agreement. If that is not possible the Working Committee will refer the dispute to a joint meeting of

---

City Council and the School District.

- \* Supervising the implementation of the terms of this agreement and coordinating all matters relating thereto.
  - \* Recommending to the City and the School District policies and regulation with regard to the use and operation of facilities.
  - \* Ensuring that a forum exists to coordinate the planning and use of facilities and programs developed by the City and the School District.
5. All facilities within the scope of this Agreement which are constructed after the signing of this Agreement shall be subject to a specific Agreement related to their use and the payment of the capital, maintenance and operating costs thereof, but shall be added to this Agreement as addenda here
  6. Facilities coming within the terms of this Agreement shall be subject to maintenance requirements, and may be closed by the party responsible for the maintenance of such facility, as it deems necessary to carry out such maintenance programs. Maintenance schedules will be made available to each party, wherever possible, six months prior to the implementation of the schedule. Each party will be responsible for the routine cleaning and maintenance of their own facilities unless otherwise agreed.
  7. The construction and location of additions to facilities, and the location of portable units on joint sites, will be done with consultation between the City and the School District.
  8. Insurance/Indemnification

It is understood and agreed by the parties hereto by the parties that the City shall indemnify and hold harmless the School District and its employees, servants, agents and contractors from any and all claims, losses, costs, damages, expenses, including legal fees on a solicitor own client basis excepting negligence of the School District, arising out of, or in connection with, the City's use and occupation of the School District's property, including use and occupancy by others who are on the School

---

District's premises with the permission of the City. The School District shall forthwith, upon receiving notice of any suit brought against it, deliver to the City full particulars thereof and the City shall render all reasonable assistance requested by the School District in the defense thereof.

9. It is understood and agreed by the parties hereto that the School District shall indemnify and hold harmless the City and its employees, servants, agents and contractors from any and all claims, losses, costs, damages, expenses, including legal fees on a solicitor own client basis excepting negligence of the City, arising out of or in connection with the School District's use and occupation of the City's property, including use and occupancy by others who are on the City's premises with the permission of the School District. The City shall forthwith, upon receiving notice of any suit brought against it, deliver to the School District, full particulars thereof and the School District shall render all reasonable assistance requested by the City in the defense thereof.
10. Each of the parties hereto agrees to maintain comprehensive general liability insurance coverage while this agreement is in force to cover the use of the property of the other. The parties hereto further agree to furnish certificates confirming that such protection is in force requested by the other party.
11. This agreement and subsequent addenda, thereto, shall, wherever possible, continue from dates of implementation for a minimum of three years, and shall continue in effect thereafter, unless one party gives to the other one year notice as to its intention to terminate the agreements, and/or addenda thereto.
12. Upon termination of this Agreement, each party shall continue to be responsible for its contribution towards the capital/operating costs of any facilities specifically developed as a joint venture and as described and set out in any addendum hereto.

---

**Facilitating Mechanisms**  
**For Council - School District Agreements**

## Addenda

### City - School District Agreements

---

This Agreement made as of \_\_\_\_\_, 2002

BETWEEN:           **SCHOOL DISTRICT NO. 43 (COQUITLAM)**  
550 Poirier Street  
Coquitlam, BC V3J 6A7  
  
(the "School District")

AND:               **THE CORPORATION OF THE CITY OF PORT MOODY**  
100 Newport Drive  
Port Moody BC V3H 5C3  
  
(the "City")

**WHEREAS** the School District and the City have agreed to cooperate in the construction and use of the (facility) to be located at (insert legal and civic address)

**THEREFORE** the School District and the City, in consideration of the terms and conditions in this agreement, agree as follows:

**(facility) Design and Construction**

1. The City shall provide for the planning, design and construction of (the "(facility)"): The (facility) shall have a minimum improved (size) of and shall be suitable for \_\_\_\_\_ as primary uses.
2. The planning and design of the (facility) shall be supervised by a steering committee and the School District shall be entitled to appoint a representative to be a member of the steering committee.
3. The City will call for tenders or proposals and will award a contract for construction of the (facility), in the discretion of the City. If the City has not awarded a construction contract by \_\_\_\_\_ 2002, this agreement will be terminated on that date.

**Capital Contribution:**

4. Within 14 days of receiving notice from the City that a contract for construction of the (facility) has been awarded, the School District will forward a capital contribution of TEN (\$10.00) DOLLARS and such other good and valuable consideration now paid by the School District to the City (the receipt and sufficiency of which is hereby

---

acknowledged by the City).

5. If construction of the (facility) is not begun within 180 days after the contribution required under Section 4 has been received by the City, or if the (facility) has not been completed within 365 days of commencement of construction, the City shall return the contribution to the School District and this agreement shall be terminated.

#### Usage Entitlement

6. Upon completion of the (facility), the School District shall be entitled to use the (facility) for \_\_\_\_ hours each week, Monday through Friday, between the hours of 8 a.m. and 5 p.m., without payment to the City. Upon request by the School District, the City may in its discretion allow all or part of the \_\_\_\_ hours to be used outside of the specified days and times. The periods when the School District has the right to use the (facility) (under this section and Section 8) are referred to in this agreement as the "School District Times".
7. Not later than the last day of each calendar month, the School District shall provide the City with a schedule of its intended hours of field usage under Section 6 during the month after the following month. The School District shall respond reasonably to any request by the City that the schedule be altered to allow any functions that are planned by the City.

#### Additional Usage

8. The School District may use the (facility) for periods in addition to the \_\_\_\_ hours per week allowed under Section 6, provided that the School District may only book additional time on the (facility) in accordance with the City's Facility Booking Policy (as attached as Schedule "A" to this agreement), and the School District shall pay the fees prescribed in the City's fees and charges policy, as amended or replaced from time to time, for any hours of usage in excess of \_\_\_\_ hours per week.

#### Duration

9. The School District's right to use the (facility) under this agreement shall terminate at the time that the (facility) is no longer usable and requires replacement or at such time as agreed to by the parties. The need for replacement and the timing of replacement shall be determined by the City in its sole discretion.

---

### Maintenance and Repair

10. The School District shall not use or permit the use of the (facility) for purposes that are not authorized by this agreement or by the City's facility usage guidelines (attached as Schedule "B" to this agreement, and as amended from time to time), without the prior written approval of the City. Without limitation, the (facility) shall not be used for (state acceptations).
11. The School District shall provide reasonable supervision of (facility) usage, and any reasonably required security services, during School District Times.
12. The School District shall ensure that all participants and spectators who are on/in or adjacent to the (facility) during School District Times comply with the facility usage guidelines established by the City from time to time. The City shall notify the School District in writing of changes in the facility usage guidelines.
13. The School District shall not alter, mark or damage the (facility) in any manner, reasonable wear and tear from permitted uses excepted.
14. The School District shall not allow any person other than students, faculty and School District staff to use the (facility) during the School District Times. During those time, the (facility) shall be used only for events sponsored and controlled by the School District. Notwithstanding the above if the facility is an outdoor facility such as playing field or track both parties recognize that there maybe incidental individual use of the facility by members of the public that can be permitted.

### Indemnities

15. The School District shall indemnify the City, its officers, employees, elected officials and agents against any claim, action or damages arising from the use of the (facility) by any person who is authorized or allowed to use the (facility) by the School District, except to the extent that loss arises from the negligence or other default of the City, its officers, employees, elected officials or agents.
16. The City shall indemnify the School District against any claim, action or damages brought or sustained by any person as a result of any negligence or other default by the city, its officers, employees, elected officials or agents with regard to the maintenance or repair of the (facility).

- 
17. The School District shall indemnify the City against the cost of repairing any damage to the (facility), beyond ordinary wear and tear, which occurs during the School District Times, unless such damage is shown to have been caused by persons who were not authorized or allowed to use the (facility) by the School District.

#### Insurance

18. Before any use of the (facility), the parties shall obtain comprehensive general liability insurance against personal injury, property damage and other liability claims arising from the use of the (facility), in a minimum amount of \$5,000,000 per occurrence with a maximum deductible amount of \$10,000 per occurrence. The City and the School District shall each obtain, maintain and pay for their own liability insurance coverage.

#### No Interest in Land

19. This agreement does not grant the School District any ownership interest or exclusive right of possession to the (facility).

#### Statutes and Bylaws

20. This agreement does not limit or affect the powers of the Council of the City under any statute, bylaw or other enactment.

#### Waiver

21. No waiver of any default by either party shall be effective unless expressed in writing and no waiver or condonation of a previous default shall operate as a waiver of any subsequent default.

#### Force Majeure

22. The obligations of the City and the School District under this agreement shall be suspended during any period when a party is prevented from fulfilling its obligations for reasons beyond its controls, including without limitation strikes, lockouts, riots or other civil disorders, fires, floods and other natural disasters or acts of God.

#### Applicable Law

23. This agreement shall be governed by the laws of British Columbia.

---

**Severability**

24. If any portion of this agreement is held to be invalid by a court, the invalid portion shall be severed and the invalidity shall not affect the remainder of the agreement.

**Notice**

25. Every notice under this agreement shall be delivered to the recipient at its address set out in this agreement or to such other address as may be provided in writing by that party from time to time. Notices to the School District shall be directed to the attention of the Director of Corporate and Property Services and notices to the City shall be directed to the attention of the Director of Parks & Recreation.

**Corporate Proceedings**

26. Each party warrants that it has taken all corporate proceedings required for the entry of this agreement.

**Entire Agreement**

27. This agreement is the entire agreement between the parties with regard to its subject matter and there are no representatives or warrantees except as expressed in this agreement.

IN WITNESS whereof the parties to have affixed their corporate seals as attested by their duly authorized officers on the date first above written.

The Corporate Seal of School District No. 43 )  
(Coquitlam) was hereunto affixed in the )  
presence of: )

\_\_\_\_\_) C/S  
Superintendent: )  
\_\_\_\_\_ )

\_\_\_\_\_) )  
Secretary: )

The Corporate Seal of The Corporation of the )  
City of Port Moody was hereunto affixed in the )  
presence of: )

\_\_\_\_\_) C/S  
Mayor: )  
\_\_\_\_\_ )

\_\_\_\_\_) )  
Clerk: )