

SEWERAGE SERVICES AGREEMENT

THIS AGREEMENT dated for reference August 1, 2014.

BETWEEN:

CITY OF PORT MOODY

City Hall
100 Newport Drive
P.O. Box 36
Port Moody, B.C., V3H 3E1

("Port Moody")

AND:

VILLAGE OF ANMORE

Municipal Hall
2697 Sunnyside Road
Anmore, B.C., V3H 3C8

("Anmore")

AND:

**GREATER VANCOUVER SEWERAGE
AND DRAINAGE DISTRICT**

4330 Kingsway
Burnaby, B.C., V5H 4G8

("GVS&DD")

BACKGROUND:

- A. Anmore is not a member of the GVS&DD and as such it has not received regional sewerage services, nor does it provide municipal sewerage services within its boundaries.
- B. Anmore and Port Moody both support the development of a middle school on the Middle School Lands, as defined below.
- C. Because of the expense of constructing on-site sewerage treatment infrastructure on the Middle School Lands, Anmore approached Port Moody and the GVS&DD to request that sewerage from the Middle School Lands be conveyed via Port Moody's municipal sewerage system to GVS&DD's Annacis Wastewater Treatment Plant for treatment.

- D. In recognition of exceptional circumstances, which include among other things the fact that Anmore is a member of the Greater Vancouver Regional District, the GVS&DD Board at its May 23, 2014 meeting approved the provision of regional sewerage services for the Middle School Lands even though Anmore is not a member of the GVS&DD.
- E. On the terms and conditions set out in this Agreement, Port Moody is prepared to accept sewerage from the Middle School Lands and convey such sewerage to the GVS&DD's sewerage system, GVS&DD is prepared to accept and treat such sewerage at the Annacis Wastewater Treatment Plant, and Anmore is prepared to pay Port Moody and GVS&DD for these services.

NOW THEREFORE, in exchange for the promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, THE PARTIES AGREE THAT:

Definitions

1. In this Agreement:
 - (a) **"Annacis Wastewater Treatment Plant"** means the wastewater treatment plant owned and operated by GVS&DD and located at 1299 Derwent Way, Delta, British Columbia;
 - (b) **"Base Unit Rate"** has the meaning given to such term in section 14;
 - (c) **"Connections"** means the sanitary sewerage and storm water connections that enable the provision of the Municipal Services, as shown on the Connection Plans;
 - (d) **"Connection Plans"** means the plans attached as Schedule "C" hereto;
 - (e) **"GVS&DD Act"** means the *Greater Vancouver Sewerage and Drainage District Act* (British Columbia);
 - (f) **"GVS&DD Surcharge"** has the meaning given to such term in section 15;
 - (g) **"Middle School Lands"** means those lands situated within the boundaries of Anmore having the legal description set out in Schedule "A" hereto;
 - (h) **"Municipal Services"** has the meaning given to such term in section 2;
 - (i) **"Owner"** means the registered owner of the Middle School Lands;
 - (j) **"Port Moody Annual Service Fee"** has the meaning given to such term in section 12;
 - (k) **"Port Moody Sewerage Charge"** has the meaning given to such term in section 12(a);

- (l) **"Port Moody Sewerage Rates"** means Port Moody's sanitary sewerage rates as established from time to time by Port Moody City Council;
- (m) **"Port Moody Storm Sewage Charge"** has the meaning given to such term in section 12(b);
- (n) **"Sanitary Sewerage System"** means the sanitary sewerage system constructed on the Middle School Lands by the Owner;
- (o) **"Secondary School Lands"** means those lands situated within the boundaries of Port Moody, immediately adjacent to the Middle School Lands and having the legal description set out in Schedule "B" hereto;
- (p) **"Storm Water System"** has the meaning given to such term in section 11(j); and
- (q) **"Water Meter"** has the meaning given to such term in section 11(f).

Municipal Services

2. Port Moody will provide to Anmore the following services (the **"Municipal Services"**):
 - (a) the conveyance of sanitary sewerage generated on the Middle School Lands to the Secondary School Lands and then through Port Moody's sewerage network to GVS&DD's sewerage network in accordance with the Connection Plans; and
 - (b) the conveyance of storm water generated on the Middle School Lands to the Secondary School Lands and then into Port Moody's storm water drainage system.
3. Port Moody will provide the Municipal Services as if the Middle School Lands were located within Port Moody and to the same standards and in a like manner as it supplies these services to parcels of land located within Port Moody.
4. For the purposes of resolving any inquiries or disputes concerning the provision and standards of the Municipal Services, Port Moody will treat the Owner as if it owned lands within Port Moody.
5. Port Moody will commence providing the Municipal Services on the date Anmore confirms in writing to Port Moody that both the Storm Water System and the Sanitary Sewerage System have been substantially completed and are ready for use.
6. Anmore acknowledges and agrees that the Municipal Services are provided by Port Moody solely for the benefit of the Owner of the Middle School Lands, and Anmore will not permit or knowingly permit any other user or person to:
 - (a) connect any other sanitary sewerage system to the Sanitary Sewerage System;

- (b) connect any other storm water system to the Storm Water System; or
 - (c) discharge sanitary sewerage or storm water to the Middle School Lands or allow sanitary sewerage or storm water generated from any other adjacent or nearby lands to be discharged to the Middle School Lands.
7. For certainty, the parties acknowledge and agree that the Connections located on the Secondary School Lands will be owned and operated by the Owner.

Condition Precedent

8. It is a condition of this Agreement that:
- (a) The Owner execute a Section 219 Covenant, in favour of Port Moody, for the discharge of sanitary sewerage and storm water; and
 - (b) The Owner execute a Section 219 Covenant, in favour of Anmore, for the discharge of sanitary sewerage and storm water.

Anmore's Responsibilities

9. Within 30 days of the date that Port Moody has confirmed in writing that the condition precedent contained in section 8(a) has been waived or satisfied and Anmore has confirmed in writing that the condition precedent in section 8(b) has been waived or satisfied, Anmore must pay to Port Moody an amount equal to the fees and charges that pertain to water, sewerage and stormwater connection as described by Port Moody's *Fees Bylaw 2013 No. 2971*, including, but not limited to:
- (a) Backflow Prevention Assembly Test Report Fee;
 - (b) Service Connection Fee for Water;
 - (c) Service Connection for Sanitary Sewer; and
 - (d) Service Connection for Storm Sewer.
10. Within 30 days of this Agreement being executed by all parties, Anmore must pay to GVS&DD \$47,400, which is the amount equal to the development cost charges that would have been payable by the Owner pursuant to GVS&DD's *Development Cost Charge Bylaw 254, 2010* if Anmore had been a member of GVS&DD at the time Anmore issued the building permit to the Owner for construction of the middle school.

11. Anmore guarantees that the Owner:

- (a) will discharge only sanitary sewerage and non-domestic liquid waste generated on or caused by its use of the Middle School Lands to the Secondary School Lands and will not cause, permit or allow any other user or person to connect to the Sanitary Sewerage System so as to then permit discharge of that sanitary sewerage to the Secondary School Lands;
- (b) will comply with Port Moody's bylaws and policies pertaining to sewerage;
- (c) will comply with GVS&DD's bylaws and policies pertaining to sewerage, including the *GVS&DD Sewer Use Bylaw No. 299* and the *GVS&DD Food Sector Grease Interceptor Bylaw No. 268*;
- (d) will discharge only storm water generated or caused by its use of the Middle School Lands to the Secondary School Lands and not cause, permit or allow any other user or person to connect to the Owner's storm water system on the Middle School Lands so as to then permit discharge of that storm water to the Secondary School Lands;
- (e) will comply with Port Moody's bylaws and policies pertaining to storm water drainage, including integrated storm water management plans;
- (f) will install on the water system serving the Middle School Lands, a water meter designed in accordance with the standards and specifications ordinarily used and applied by Port Moody, sufficient to ensure accurate measurement in cubic meters of water conveyed to the Middle School Lands (the "**Water Meter**");
- (g) will carry out all necessary repairs, maintenance, replacement, and inspection of the Water Meter;
- (h) will carry out testing and calibration of the Water Meter every 5 years and will provide the results to Anmore, Port Moody and GVS&DD within 30 days of completing such testing and calibration;
- (i) will cause the Water Meter to be read and recorded 4 times each year, commencing January 1st and then every 3 months thereafter, to determine the quantity of water conveyed to the Middle School Lands by Anmore for the previous quarter ("**Conveyed Water**"), and will then forward the results to Anmore, Port Moody and GVS&DD within 30 days following each such reading ("**Water Reading**");
- (j) will design, construct, maintain, repair and replace a storm water system on the Middle School Lands (the "**Storm Water System**") to ensure that there are no blockages that would cause storm water to flow directly across the Middle School Lands to the Secondary School Lands, and to ensure that the release of storm water

is at such a rate as not to exceed the design standards for the receiving storm system located on the Secondary School Lands nor the Port Moody storm water system; and

- (k) will carry out, or cause to be carried out, quarterly inspections of the Storm Water System and will, within 30 days of each inspection, provide Anmore and Port Moody with a report detailing the date of inspection and the maintenance, repairs and replacements performed on the Storm Water System.

Payments by Anmore to Port Moody

12. In consideration of Port Moody providing the Municipal Services, Anmore will pay to Port Moody an annual service fee ("**Port Moody Annual Service Fee**") comprised of the following:
 - (a) a sewerage charge ("**Port Moody Sewerage Charge**") calculated by applying Port Moody's Sewerage Rates to 80% of the Conveyed Water;
 - (b) a storm sewer charge ("**Port Moody Storm Sewer Charge**") calculated by applying the conditions in Port Moody's property tax bylaws to the Middle School Lands and associated buildings;
 - (c) an annual administrative fee equal to 10% of the Port Moody Sewerage Charge and 10 % of the Port Moody Storm Sewer Charge which is partial compensation for Port Moody's staff time and overhead associated with administering this Agreement and providing the Municipal Services;
13. The Port Moody Annual Service Fee will be payable by Anmore in four quarterly installments or on such other billing schedule as may be required by *City of Port Moody Fees Bylaw No. 2857*. Anmore will pay Port Moody the full amount of each Port Moody invoice within the time periods specified on the invoice.

Payments by Anmore to GVS&DD

14. Each calendar year GVS&DD will calculate a base unit rate by dividing the total Non-Growth Costs that were apportioned to the Fraser Sewerage Area for the current calendar year pursuant to sections 6.1, 6.2 and 6.3 of GVS&DD's *Cost Apportionment Bylaw 283*, by the Dry Weather Flow for the Fraser Sewerage Area for the previous calendar year (the "**Base Unit Rate**"). An example of this calculation is attached as Schedule "D".
15. On or before February 15 each year, GVS&DD will invoice Anmore for an amount equal to 20% of the Base Unit Rate multiplied by the volume of Conveyed Water for the previous calendar year (the "**GVS&DD Surcharge**"). The GVS&DD Surcharge constitutes GVS&DD's surcharge for regional sewerage service to a non-member municipality. Anmore will pay GVS&DD the full amount of each invoice within the time period specified on the invoice.

Payments by Port Moody to GVS&DD

16. Port Moody acknowledges and agrees that for the purposes of apportioning costs in accordance with GVS&DD's *Cost Apportionment Bylaw No. 283*, the sanitary sewerage generated on the Middle School Lands will be included within Port Moody's Dry Weather Flow, as that term is defined in such bylaw.

Inspection and Audit

17. From time to time, at the request of Port Moody or GVS&DD, Anmore will permit Port Moody and GVS&DD or either of them to inspect and audit, including by agents or contractors, Anmore's water utility records, books and accounts as they relate to the Conveyed Water.

Term of Agreement

18. This Agreement shall remain in force for 25 years from the date first written above.

Termination

19. Port Moody may terminate this Agreement upon 8 months written notice to Anmore and GVS&DD if Anmore fails to pay any installment of the Port Moody Annual Service Fee due and payable under this Agreement following 30 days written notice of such non-payment from Port Moody.
20. GVS&DD may terminate this Agreement upon 8 months written notice to Anmore and Port Moody if Anmore fails to pay the GVS&DD Surcharge due and payable under this Agreement following 30 days written notice of such non-payment from GVS&DD.
21. The terminating party must work co-operatively with the other two parties to ensure the uninterrupted provision of Services during the 8 month termination period.
22. After this Agreement has expired or is terminated neither Anmore nor Port Moody are permitted to convey sewerage generated on the Middle School Lands to GVS&DD's sewerage network and neither Port Moody nor GVS&DD has any obligation to provide any services to Anmore with respect to sewerage.

General

23. All references to each party herein are deemed to be references to the administrators, successors, permitted assigns of the respective parties hereto whenever the context so allows.
24. All references to legislation or regulations in this Agreement include any amendment to or replacement of such legislation or regulations.


25. This Agreement shall enure to the benefit of and be binding on the parties hereto.
26. Whenever the singular or masculine is used in this Agreement, the same shall be deemed to include the plural, the feminine, or the body politic or corporate as the context so requires.
27. Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default by that party.
28. This Agreement shall be governed by and construed according to the laws of the Province of British Columbia.
29. Time is of the essence in this Agreement.
30. Section headings are included for convenience only and do not form part of this Agreement and shall not be used in the construction or interpretation of this Agreement.
31. The whole Agreement between parties hereto is set forth in this Agreement and no representations, warranties, or conditions, express or implied, have been made other than expressed herein.
32. Whenever it is required or desired that either party deliver or serve a notice on the other, delivery or service shall be deemed to be satisfactory and deemed to have occurred when:
 - (a) served personally, on the date of service; or
 - (b) mailed by prepaid registered mail to the address listed for that party on the first page of this Agreement or other address of which that party has in writing notified the other, on the earlier of the date received or on the fifth business day following date of mailing at any Canada post office, but in the event of interruption of mail service, notice shall be deemed to be delivered only when actually received by the party to whom it is addressed.
33. Should any clause or portion of this Agreement be declared or held invalid for any reason, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.

34. This Agreement may be executed in counterparts, each of which will be deemed as an original, but all of which will constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission is as effective as delivery of an originally executed counterpart

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

CITY OF PORT MOODY

by its authorized signatories:



Mayor M. E. (MIKE) CLAY, MAYOR



Clerk KELLY RIDLEY, CITY CLERK

VILLAGE OF ANMORE

by its authorized signatories:



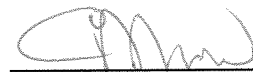
Mayor



Clerk

**GREATER VANCOUVER SEWERAGE AND
DRAINAGE DISTRICT**

by its authorized signatory:



Carol Mason
Commissioner

SCHEDULE "A"

Legal Description of Middle School Lands

PID: 025-638-661

Lot 2 Section 16 Township 39 New Westminster District Plan BCP5107

PID: 024-381-993

Lot 4 Section 16 Township 39 New Westminster District Plan LMP40733

PID: 024-382-001

Lot 5 Section 16 Township 39 New Westminster District Plan LMP40733

SCHEDULE "B"

Legal Description of Secondary School Lands

PID: 025-214-560

Lot 1 District Lot 350 Group 1 New Westminster District Plan LMP52368

SCHEDULE "C"

Connection Plans

Please see next page

SCHEDULE "D"**Example of Calculation of Base Unit Rate for 2014 calendar year.**

Non-Growth Costs that were apportioned to the Fraser Sewerage Area for 2014 pursuant to sections 6.1, 6.2 and 6.3 of *GVS&DD's Cost Apportionment Bylaw 283, 2014*

= \$87,437,386

Dry Weather Flow for the Fraser Sewerage Area for 2013

= 429.50 Mega litres /day

= 429,500 m³/day

= 156,767,500 m³/year

Base Unit Rate

= \$87,437,386 / 156,767,500m³

= \$0.56 / m³