

## VICTORIA LAND TITLE OFFICE

APPLICATION TO DEPOSIT PLAN Oct-15-2018 11:38:07.001  
 AT LAND TITLE OFFICE  
 PROVINCE OF BRITISH COLUMBIA

1539381648

CA7127571

PAGE 1 OF 2 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.732, and a true copy, or a copy of that true copy, is in your possession.

<b>Thomas Earl Baillie 8CBI24</b>	Digitally signed by Thomas Earl Baillie 8CBI24 Date: 2018.10.12 15:01:24 -07'00'
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1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

**BAILLIE LAW CORPORATION**

Suite 1088

650 West Georgia Street

Vancouver

BC V6B 4N8

Tel: (604) 684-9996

File No: 5124-464

Document Fees: \$89.96

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
 [PID] [LEGAL DESCRIPTION]

**NO PID NMBR PART OF SUBURBAN LOT 40 ESQUIMALT DISTRICT BEING PART OF ROAD  
 DEDICATED BY PLAN 2854**

Related Plan Number:

3. APPLICATION FOR DEPOSIT OF:

PLAN TYPE	PLAN NUMBER	CONTROL NUMBER	NUMBER OF NEW LOTS CREATED
Reference or Explanatory	EPP84906	153-238-1694	0

4. OWNER(S): (updated owner(s) name(s), occupation(s), postal address and postal code)

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

1229 ESQUIMALT ROAD

ESQUIMALT

BRITISH COLUMBIA

V9A 3P1

CANADA

5. ADDITIONAL INFORMATION:

The application is pursuant to Section 35(11) of the Community Charter.

PLAN NUMBER: EPP84906

CONTROL NUMBER: 153-238-1694

Witness to All Signatures

\_\_\_\_\_  
[signature]

**ANJA NURVO**  
Barrister and Solicitor  
Corporation of the Township of Esquimalt  
1229 Esquimalt Road  
Esquimalt, BC V9A 3P1

CORPORATION OF THE TOWNSHIP OF ESQUIMALT  
by its authorized signatories:

\_\_\_\_\_  
Barbara Desjardins

\_\_\_\_\_  
Laurie Hurst

Witness to All Signatures

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[fill in witness name]

\_\_\_\_\_  
[fill in occupation]

\_\_\_\_\_  
[fill in address line 1]

\_\_\_\_\_  
[fill in address line 2]

VICTORIA LAND TITLE OFFICE  
Oct-15-2018 11:38:07.002

EPP84906

SURVEY PLAN CERTIFICATION  
PROVINCE OF BRITISH COLUMBIA 0887

PAGE 1 OF 2 PAGES

By incorporating your electronic signature into this form you are also incorporating your electronic signature into the attached plan and you  
(a) represent that you are a subscriber and that you have incorporated your electronic signature to the attached electronic plan in accordance with section 168.73 (3) of the Land Title Act, RSBC 1996 c.250; and  
(b) certify the matters set out in section 168.73 (4) of the Land Title Act,  
Each term used in this representation and certification is to be given the meaning ascribed to it in part 10.1 of the Land Title Act.

Ryan Hourston  
TI2PEQ  
Digitally signed by Ryan Hourston TI2PEQ  
Date: 2018.07.23 14:34:54 -07'00'

1. BC LAND SURVEYOR: (Name, address, phone number)

Ryan P. Hourston

JE Anderson & Associates

4212 Glanford Avenue

Victoria

BC V8Z 4B7

Phone: (250) 727-2214

Email: rhourston@jeanderson.com

File:30418

Surveyor General Certification [For Surveyor General Use Only]

2. PLAN IDENTIFICATION:

Control Number: 153-238-1694

Plan Number: EPP84906

This original plan number assignment was done under Commission #: 887

LTO Document Reference: CA7127571

3. CERTIFICATION:

Form 9  Explanatory Plan  Form 9A

I am a British Columbia land surveyor and certify that

this plan was completed and checked on: 2018 July 23 (YYYY/Month/DD)

that the checklist was filed under ECR#: 214343

and that the plan is correct in accordance with Land Title Office records.

None  Strata Form S

None  Strata Form U1  Strata Form U1/U2

Arterial Highway

Remainder Parcel (Airspace)

ALTERATION:

**EXPLANATORY PLAN OF PART OF SUBURBAN  
LOT 40, ESQUIMALT DISTRICT, BEING PART OF  
ROAD DEDICATED BY PLAN 2854**

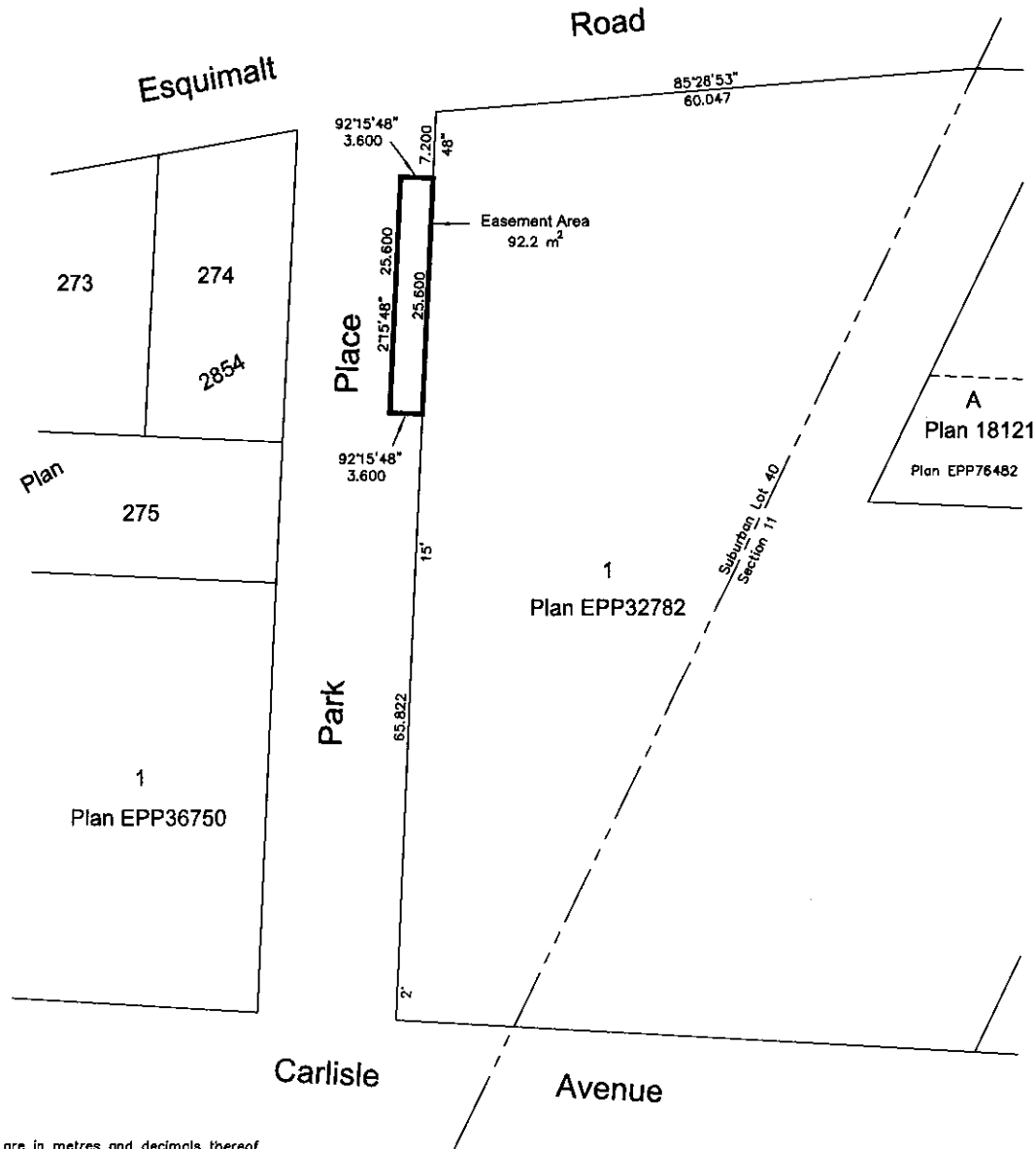
**PLAN EPP84906**

For Easement Purposes Pursuant to Section 35(11), Community Charter  
and Section 99(1)(e), Land Title Act

BCGS 92B.043



The intended plot size of this plan is 280mm in width by 432mm  
in height (B size) when plotted at a scale of 1:500.



All distances are in metres and decimals thereof

Integrated Survey Area No. 38, Esquimalt,  
NAD83 (CSRS) [3.0.0.BC.1.CRD]

Grid bearings are derived from Plan EPP32782 and  
are referred to the central meridian of UTM Zone 10

This plan shows horizontal ground-level distances unless  
otherwise specified. To compute grid distances, multiply  
ground-level distances by the average combined factor  
of 0.99961085 which has been derived from Plan EPP32782

This plan lies within the Capital Regional District

This plan is based on the following Land Title and Survey  
Authority of BC records:

Plan EPP32782

Ryan P. Hourston, BCLS 887

23rd day of July, 2018.

J.E. ANDERSON & ASSOCIATES  
B.C. Land Surveyors - Consulting Engineers  
Victoria-Nanaimo-Parksville-Campbell River, B.C.  
File: 30418

## VICTORIA LAND TITLE OFFICE

LAND TITLE ACT BRITISH COLUMBIA Oct-15-2018 11:38:07.003  
 FORM 17 FEE SIMPLE  
 LAND TITLE AND SURVEY AUTHORITY

CA7127572

1539381711

PAGE 1 OF 1 PAGES

- Your electronic signature is a representation by you that:
  - you are a subscriber; and
  - you have incorporated your electronic signature into
    - this electronic application, and
    - the imaged copy of each supporting document attached to this electronic application,

<b>Thomas Earl</b> <b>Baillie 8CBI24</b>	Digitally signed by Thomas Earl Baillie 8CBI24 Date: 2018.10.12 15:02:13 -07'00'
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- Your electronic signature is a declaration by you under Section 168.41 of the *Land Title Act* in respect of each supporting document required in conjunction with this electronic application that:
  - the supporting document is identified in the imaged copy of it attached to this electronic application;
  - the original of the supporting document is in your possession; and
  - the material facts of the supporting document are set out in the imaged copy of it attached to this electronic application.

Each term used in the representation and declaration set out above is to be given the meaning ascribed to it in Part 10.1 of the *Land Title Act*.

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

**BAILLIE LAW CORPORATION**

Suite 1088

650 West Georgia Street

Vancouver

BC V6B 4N8

Tel: (604) 684-9996

File No: 5124-464

Document Fees: \$71.58

Deduct LTSA Fees? Yes

- 2a. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [legal description]

**NO PID NMBR PART OF SUBURBAN LOT 40 ESQUIMALT DISTRICT, BEING PART OF ROAD DEDICATED BY PLAN 2854 AS SHOWN OUTLINED ON PLAN EPP84906**

STC? YES

Related Plan Number: **EPP84906**

- 2b. MARKET VALUE: \$

3. NATURE OF INTEREST: **Fee Simple**

**APPLICATION FOR TITLE TO ROAD**

ADDITIONAL INFORMATION:

4. PERSON ENTITLED TO BE REGISTERED AS OWNER: (including occupation(s), postal address(es) and postal code(s))

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

1229 ESQUIMALT ROAD

ESQUIMALT

BRITISH COLUMBIA

V9A 3P1

CANADA



LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

Oct-15-2018 11:38:07.004

CA7127573

1539381761 PAGE 1 OF 18 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Thomas Earl  
Baillie 8CB124

Digitally signed by Thomas Earl Baillie 8CB124  
Date: 2018.10.12 15:03:02 -07'00'

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

**BAILLIE LAW CORPORATION**

Suite 1088

650 West Georgia Street

Vancouver

BC V6B 4N8

Tel: (604) 684-9996

File No: 5124-464

Document Fees: \$71.58

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

**SEE SCHEDULE**

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**SEE SCHEDULE**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

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

**ARAGON ESQUIMALT TC PROPERTIES LTD.**

#201, 1628 WEST 1ST AVENUE

VANCOUVER

V6J 1G1

BRITISH COLUMBIA

CANADA

Incorporation No

BC1068481

7. ADDITIONAL OR MODIFIED TERMS:

n/a

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

Officer Signature(s)

ANJA NURVO

Barrister & Solicitor

Township of Esquimalt

1229 Esquimalt Road

Esquimalt, BC V9A 3P1

(as to both signatures)

Execution Date

Y	M	D
18	10	09

Transferor(s) Signature(s)

Corporation of the Township of Esquimalt by its authorized signatories:

Barbara Desjardins

Laurie Hurst

OFFICER CERTIFICATION:

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

LAND TITLE ACT  
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

\_\_\_\_\_  
THOMAS E. BAILLIE, Q.C.

Barrister & Solicitor

1088 - 650 West Georgia Street  
Vancouver, BC V6B 4N8

Y	M	D
18	09	12

Aragon Esquimalt TC Properties Ltd. by  
its authorized signatory:

\_\_\_\_\_  
Lenny Moy

OFFICER CERTIFICATION:

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



**LAND TITLE ACT  
FORM E**

**SCHEDULE**

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2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**029-349-311 LOT 1 SECTION 11 SUBURBAN LOT 40 ESQUIMALT DISTRICT PLAN  
EPP32782**

STC? YES

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2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**NO PID NMBR PART OF SUBURBAN LOT 40 ESQUIMALT DISTRICT, BEING PART OF ROAD  
DEDICATED BY PLAN 2854 AS SHOWN OUTLINED ON PLAN EPP84906**

STC? YES

[Related Plan Number]

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2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

STC? YES

**LAND TITLE ACT  
FORM E**

**SCHEDULE**

NATURE OF INTEREST  
**Easement**

CHARGE NO.

ADDITIONAL INFORMATION

Over part of Suburban Lot 40, Esquimalt District,  
being part of road dedicated by Plan 2854 as  
shown outlined on Plan EPP84906

In favour of PID 029-349-311 - Lot 1 Section 11  
Suburban Lot 40 Esquimalt District Plan EPP32782

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NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

---

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

---

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

---

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

---

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**TERMS OF INSTRUMENT – PART 2**

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**ENCROACHMENT EASEMENT**

**BETWEEN:**

**ARAGON ESQUIMALT TC PROPERTIES LTD.**  
 #201 – 1628 West 1<sup>st</sup> Avenue  
 Vancouver, BC V6J 1G1  
 (the "Grantee" or "Aragon")

**OF THE FIRST PART**

**AND:**

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**  
 1229 Esquimalt Road  
 Esquimalt, BC V9A 3P1  
 (the "Grantor" or "Township")

**OF THE SECOND PART**

**RECITALS:**

- A. The Grantor owns a highway adjacent to the Dominant Tenement which is shown as road on Plan VIP2854 (the "Highway"), and includes sidewalks, boulevard, curb, gutter;
- B. The Grantee is the owner of lands legally described as:  
 PID 029-349-311  
 Lot 1 Section 11 Suburban Lot 40 Esquimalt District Plan EPP32782  
 (the "Dominant Tenement" or "Land");
- C. The Grantor has authority under section 35(11) of the Community Charter to grant a licence of occupation or easement or permit an encroachment in respect of the Highway;
- D. The Grantee has requested from the Grantor permission to non-exclusively encroach upon, use and occupy the portion of the Highway shown on Plan EPP84906, attached as Schedule "A", for the purpose of installing, operating, using and maintaining a water main (collectively the "Works"), as shown on the attached Schedule "B", consistent with and for the benefit of the Dominant Tenement;

- E. The encroachment is entirely underground and the Grantor considers that the any aboveground work undertaken in relation to the encroachment is a necessary restriction of the common law right of passage and has agreed to grant the Grantee this Encroachment Easement over a portion of the Highway subject to the provisions set forth
- F. The Grantee has requested the Township to grant permission to construct, use or continue the use or existence of an encroachment onto land owned or possessed by the Township (the "**Highway**") which encroachment is appurtenant to the Land, which request the Township has agreed to grant, subject to the provisions set forth.

**NOW THIS AGREEMENT WITNESSES** that in consideration of the financial consideration of TEN DOLLARS (\$10.00), premises, terms and conditions herein contained, the sufficiency and receipt of which is hereby acknowledged, the parties covenant and agree each with the other as follows:

#### **1.0 ENCROACHMENT EASEMENT**

- 1.1 The Grantor hereby grants to the Grantee, with respect to the portion of the Highway shown in heavy outline on the reference Plan EPP84906 by Ryan P. Hourston, B.C.L.S., dated the 23<sup>rd</sup> day of July, 2018, a copy of which is attached as Schedule "A" (the "**Encroachment**"), for the benefit of and appurtenant to the Dominant Tenement for the use and enjoyment of the Grantee, in common with the Grantor and all other persons now or hereafter having the express or implied permission of the Grantor, the full, free and non-exclusive permission to encroach upon, use and occupy the Encroachment for the purpose of installing, operating, using and maintaining the Works.
- 1.2 The Grantor agrees that the Encroachment is permitted to remain until such time as the buildings on the Dominant Tenement to which the Works relate are demolished, deconstructed or otherwise no longer exist, at which time the Agreement shall terminate and the Grantee shall restore the Encroachment and the Lands to a state similar to the adjacent Highway, and restore any sidewalks, curbs, gutters, road markings and other improvements therefor to the satisfaction of the Director of Engineering & Public Works.
- 1.3 The Grantee acknowledges and agrees that the Encroachment is over a highway and that the Grantor has limited power to authorize the private use of highways. The Grantee further acknowledges and agrees that any rights granted by the Grantor to the Grantee by this Agreement are not exclusive and are subject to the public's right to pass and repass. The Grantee will not close or otherwise prevent access to and use of the Encroachment as a public highway, and will only restrict access to the Encroachment insofar as necessary to install, operate, use and maintain its Works.

## **2.0 NO RELIEF**

- 2.1 It is understood, covenanted and agreed by and between the parties hereto that no provision of these presents and no act or omission or finding of negligence, whether joint or several, as against the Township, in favour of any third party, shall operate to relieve, or be deemed to relieve, the Grantee in any manner whatsoever from any liability to the Township in the premises, or under these presents, or under the provisions of the *Community Charter*, the *Local Government Act*, or any bylaw of the Township and amendments thereto.

## **3.0 GRANTEE COVENANTS**

- 3.1 The Grantee covenants and agrees:

### Maintenance and Repair

- (a) at all times, and at the Grantee's own expense, to keep and maintain the Works in good and sufficient repair to the satisfaction of the Director of Engineering & Public Works;
- (b) to promptly attend at its own expense to any breakdown, maintenance, and repair of the Works to the satisfaction of the Director of Engineering & Public Works;
- (c) to be solely responsible for all costs associated therewith including those undertaken or assessed by the City of Victoria, the Township acknowledging that the Works pertain to water supplied by the City of Victoria and therefore the Grantee may arrange with, or the City of Victoria may otherwise of its own initiative maintain, repair or otherwise attend to the Works;

### Non-interference

- (d) to carry out all work under this Agreement in a proper and workmanlike manner so as to do as little injury to the Highway as possible and to cause a minimum of obstruction and inconvenience to the Highway during any construction, maintenance and repair;
- (e) to not excavate on or under the Highway or construct, install, remove, repair, replace, maintain, amend, expand, add to or change the use of the Works without the prior written consent of the Director of Engineering & Public Works. For certainty, before commencement of any of the aforementioned actions, the Grantee shall obtain all permits and licenses necessary therefor under the bylaws of the Township, and the Grantee shall pay any inspection, license or permit fees in respect thereof;
- (f) to use the Encroachment in such a manner as not to interfere with any existing utilities located in the Highway;

- (g) to place and maintain such warning signs, barricades, lights or flares at or near the site of the works in progress as will give reasonable warning and protection to members of the public, and otherwise carry out any and all instructions, either oral or written, given to the Grantee, its agents, employees or contractors, by the Grantor with respect to the safety and protection and the continued and uninterrupted use by the Grantor and the public, subject to the rights hereby granted, of the Highway and the Encroachment;

#### Disturbance and Restoration

- (h) to make good at its own expense all damage or disturbance caused by the exercise of its rights pursuant to this Agreement, which may include damage or disturbance caused to the surface or support of the Highway, the Encroachment or any other services associated with the Highway or Works;
- (i) to, in the event of the expiry or termination of this Agreement from any cause whatsoever, at Grantee's own expense, and within a period of one month from the date of such termination, or such further or shorter period as may be specified by the Director of Engineering & Public Works, remove the Works and fill up any excavation made, constructed or maintained, with respect to such encroachment, and replace and put the sidewalk, street, lane or other public place in, under or over such area in the same condition as the adjoining sidewalk, street, lane or other public place to the satisfaction of the Director of Engineering & Public Works;

#### Consideration

- (j) to pay to the Township the fee of Ten Dollars (\$10.00) upon execution of this Agreement, and to grant easements to the Township over the Land for the Township's existing and planned encroachments and use of the Land, including for a portion of the existing wheelchair ramp and stairs at the front entrance of the Municipal Hall, and the parties agree that such exchange of easements represents the fair market value of this Encroachment Easement;

#### Release and Indemnity

- (k) to indemnify and save harmless the Township from any and all liability whatsoever arising out of:
  - (i) the Works encroaching upon, under or over the Encroachment and Highway,
  - (ii) the Grantee's construction of anything upon, under or over the Encroachment and Highway,
  - (iii) the Grantee's maintenance of anything upon, under or over the Encroachment and Highway,

- (iv) the Grantee's occupation or use of the Encroachment or the ground below or the air above for the purpose of such encroachment by the Works;
- (l) to release and forever discharge the Grantor of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which the Grantee can or may have against the Grantor for any loss, damage, deprivation, enrichment or injury, including economic loss, arising out of or connected with the Grantee's installation, use, operation, maintenance and repair of the Works;
- (m) to charge its interest in the Land in favour of the Township for the payment of all sums which may at any time hereafter be payable to the Township in respect of any claims, loss, damage or expense of whatsoever kind arising:
  - (i) from the construction, maintenance or existence of the Works,
  - (ii) from the permission hereby granted.

#### Insurance

- (n) if requested to do so by the Director of Engineering & Public Works, to deposit with the Township a policy of public liability insurance in the form and amount acceptable to the Director of Engineering & Public Works insuring both the Grantee and the Township against any loss resulting from the occurrences mentioned in section (b) above. Cancellations of such insurance will serve to immediately cancel this Agreement and any right the Grantee derives hereunder

#### Entry

- (o) that the Township's servants or agents shall have the right at any and all reasonable times of entering into and upon the Land for the purpose of constructing, maintaining, inspecting or removing any public structure, service or utility running underneath the Highway in the vicinity of the said Works;

#### Municipal Works

- (p) to, in the event of any alteration or change being necessary by the construction, maintenance, use or removal of the Works to any meter, water service, sewer or other public works or utility in the vicinity of the Land, reimburse the Township for whatever costs may be incurred by the Township in making such alterations or changes as may be deemed necessary by the Director of Engineering & Public Works; and

#### Default

- (q) at all times to observe and perform the provisions of the bylaws of the Township, and this Agreement shall at all times be subject thereto and in case

the Grantee shall fail to comply with the provisions of the said bylaws, or any of them or of this Agreement, all rights of the Grantee hereunder shall thereupon terminate and be at an end; but the Township, nevertheless, shall be entitled to proceed with the enforcement of any security or indemnity herein provided, or upon any bond or otherwise in satisfaction of any claim, loss or expense of whatsoever arising under this Agreement, or from the permission hereby granted.

**3.2 Should the Grantee:**

- (a) fail to keep the Works or covering thereof in good and sufficient repair, to the satisfaction of the Director of Engineering & Public Works,
- (b) fail to remove the Works or to fill up any excavation or fail to return the Encroachment to the satisfaction of the Director of Engineering & Public Works upon the expiry or termination of this Agreement,
- (c) fail to otherwise abide by any condition of this Agreement,

the Director of Engineering & Public Works, upon fifteen (15) days written notification of such failure (except in the case of emergency when no notice is required) and provided that the Grantee has not resolved the failure within that period of time, may:

- (i) make such repairs, including structural changes, when the Director has deemed necessary, or
- (ii) remove the Works, or fill up such excavation,
- (iii) do any work necessary to fulfill any condition of this Agreement, or
- (iv) permit the Grantee to continue such rectification, repairs or work that the Grantee has commenced and is diligently continuing,

as the case may require, in the sole discretion of the Director of Engineering & Public Works.

- 3.3** The Grantee shall pay the costs of such work done under this Part forthwith to the Township; and in the default of payment, the amount of such cost and interest at twelve percent per annum may be recovered in any court of competent jurisdiction, or the same may be recovered in like manner as overdue taxes against the Dominant Tenement.

**4.0 NO RESTRICTIONS OR REQUIREMENTS ON GRANTOR/ TOWNSHIP**

- 4.1** This Agreement shall not in any way operate to restrict the right of the Township at any time to:

- (a) alter the road, curb, gutter, sidewalk or boulevard abutting or adjoining the Land, and notwithstanding that the effect of such alteration in width or elevation



may be to render the Works useless or of less value for the purposes of the Grantee;

- (b) construct any form of structure or utility on, over or under any portion of the Highway in which the Works encroach and for such purpose require that the Works be removed in part or in whole;
  - (c) temporarily block off access to the Works and Encroachment as needed in its sole discretion when conducting Highway maintenance or making Highway improvements; and
  - (c) permit other encroachments or use of the Encroachment and Highway.
- 4.2 The Grantee covenants that, in the event of the Township taking any action under this Part, the Grantee will release and forever discharge, and hereby releases and forever discharges, the Grantor from all manner of claims of any nature whatsoever, which may arise by reason of such action.
- 4.3 Nothing contained or implied in this Agreement:
- (a) prejudices or affects the rights, powers or discretion of the Grantor or the Approving Officer in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Grantee;
  - (b) imposes any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement or the breach of any provision in this Agreement; or
  - (c) imposes any public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, on the Grantor or the Approving Officer with respect to its exercise of any right or remedy expressly provided in this Agreement or at law or in equity.
- 4.4 The Grantor may withhold development permits, building permits and other approvals related to the use, building or subdivision of land as necessary to ensure compliance with the covenants in this Agreement, and the issuance of a permit or approval does not act as a representation or warranty by the Grantor that the covenants of this Agreement have been satisfied.
- 4.5 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity. Damages will be an inadequate remedy for the Grantor; and the Grantor is entitled to an order for specific performance or a prohibitory or mandatory injunction in order to compel performance of the obligations of this Agreement.

- 4.6 The Grantor, by waiving or neglecting to enforce its rights under this Agreement, including upon breach of this Agreement, does not waive its rights upon any subsequent breach of the same or any other provision of this Agreement.

## 5.0 SUBDIVISION & ASSIGNMENT

- 5.1 The restrictions and requirements in this Agreement are covenants running with the Land and shall bind the Dominant Tenement and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated.
- 5.2 If the Dominant Tenement is subdivided at any time either under the provisions of the *Land Title Act* or the *Strata Property Act*, and amendments thereto and re-enactments thereof, on the deposit of a plan of subdivision, the benefit of each of the easements and covenants herein granted shall continue and shall be annexed to and run with each of the new subdivided parcels so created and be registered and shown as charges on each resulting title. On the deposit of a strata plan, subject to this Part, the burden and the benefit of each of the easements and covenants herein granted shall continue and shall be annexed to and run with each of the strata lots so created and be registered and shown as charges on each resulting title (and shall be noted on the common property sheet).
- 5.3 Subdivision by Strata Plan. Upon subdivision of the Dominant Tenement by a strata plan:
- (a) the benefit and burden of the easements herein granted and the other covenants and agreements herein shall be accepted on behalf of the owners of the strata lots by the Strata Corporation and shall be administered, enforced, modified, or released by the strata corporation only. For greater certainty, the Strata Corporation shall, subject to the provisions of the *Strata Property Act*:
    - (i) perform and observe the Grantee's covenants herein at the expense of the strata lot owners;
    - (ii) enter into an assumption agreement with the Grantor in a form satisfactory to the Grantor, acting reasonably, causing the applicable newly created strata corporation to assume all of the then ongoing obligations of the Grantee hereunder;
    - (iii) endeavour to pass bylaws and include in the annual budgets of the Strata Corporation provisions reflecting the obligations of the Grantee hereunder; and
    - (iv) be entitled to give all permissions and consents permitted to be given by the Grantee;
  - (b) the personal liability of each strata lot owner for the performance and observance of the covenants and obligations herein of the Grantee shall be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan; and

(c) subject to the *Strata Property Act*, no strata lot owner shall attempt to enforce or in any way interfere with the administration by the Strata Corporation of the easements and other provisions of this Agreement.

5.4 In the event of a subdivision of the Dominant Tenement, other than by way of strata plan, the Grantee and the Grantor shall, upon receipt of a written request from the Grantor or Grantee, surrender and discharge this Agreement by executing a discharge in registerable form, from title to all those parcels which are not intended by the Grantor or Grantee to have the benefit of the Encroachment.

5.5 The Grantee covenants and agrees not to transfer the Dominant Tenement, or any portion thereof, without advising the purchaser or transferee of this Agreement and without providing to the Grantor evidence that the purchaser or transferee agrees to take on the benefits and be bound by the obligations of this Agreement. The parties agree that this provision shall not apply to subdivision of the Dominant Tenement under the *Strata Property Act*, and related transfers, except with respect to the Strata Corporation.

## **6.0 INTERPRETATION**

6.1 Time shall be of the essence of this Agreement

6.2 When the singular or neuter is used in this Agreement they include the plural or the feminine or the masculine or the body politic where the context or the parties require.

6.3 The headings to the clauses in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

6.4 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.

6.5 No part of the title in fee-simple to the soil shall pass to or be vested in the Grantee under or by virtue of these presents, and the Grantor may fully use and enjoy all the Highway, subject only to the rights and restrictions herein contained

6.6 This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

6.7 All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.

6.8 This Agreement is the entire agreement between the parties and the Grantor has made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise) to or with the Grantee other than those expressed in this Agreement.

- 6.9 If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 6.10 The Grantee acknowledges having received legal advice prior to executing this Agreement, and the Grantee agrees that it fully and completely understands this Agreement and its impact on the Lands and the Dominant Tenement.

**IN WITNESS WHEREOF** the parties acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (pages 1 and 2) attached hereto.

Authorized by Council resolution on the 20<sup>th</sup> day of August, 2018.

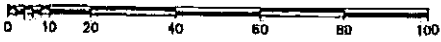
**SCHEDULE A  
PLAN EPP84906**

# EXPLANATORY PLAN OF PART OF SUBURBAN LOT 40, ESQUIMALT DISTRICT, BEING PART OF ROAD DEDICATED BY PLAN 2854

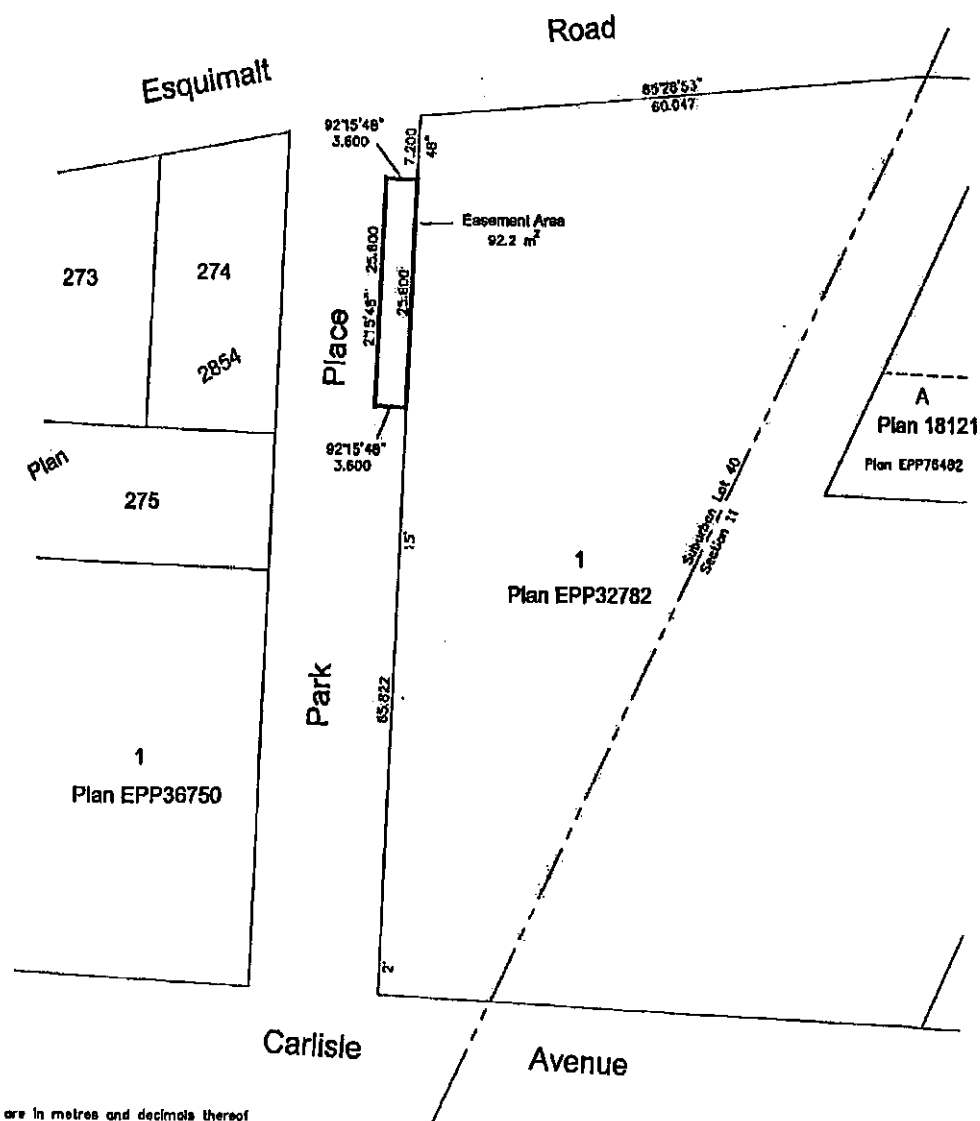
PLAN EPP84906

For Easement Purposes Pursuant to Section 35(11), Community Charter and Section 99(1)(e), Land Title Act

BCGS 92B.043



The intended plot size of this plan is 280mm in width by 432mm in height (B size) when plotted at a scale of 1:500.



All distances are in metres and decimals thereof

Integrated Survey Area No. 3B, Esquimalt, NAD83 (CSRS) [3.0.0.BC.V.CRD]

Grid bearings are derived from Plan EPP32782 and are referred to the central meridian of UTM Zone 10

This plan shows horizontal ground-level distances unless otherwise specified. To compute grid distances, multiply ground-level distances by the average combined factor of 0.99961085 which has been derived from Plan EPP32782

This plan lies within the Capital Regional District

This plan is based on the following Land Title and Survey Authority of BC records:

Plan EPP32782

Ryan P. Hourston, BCLS 887

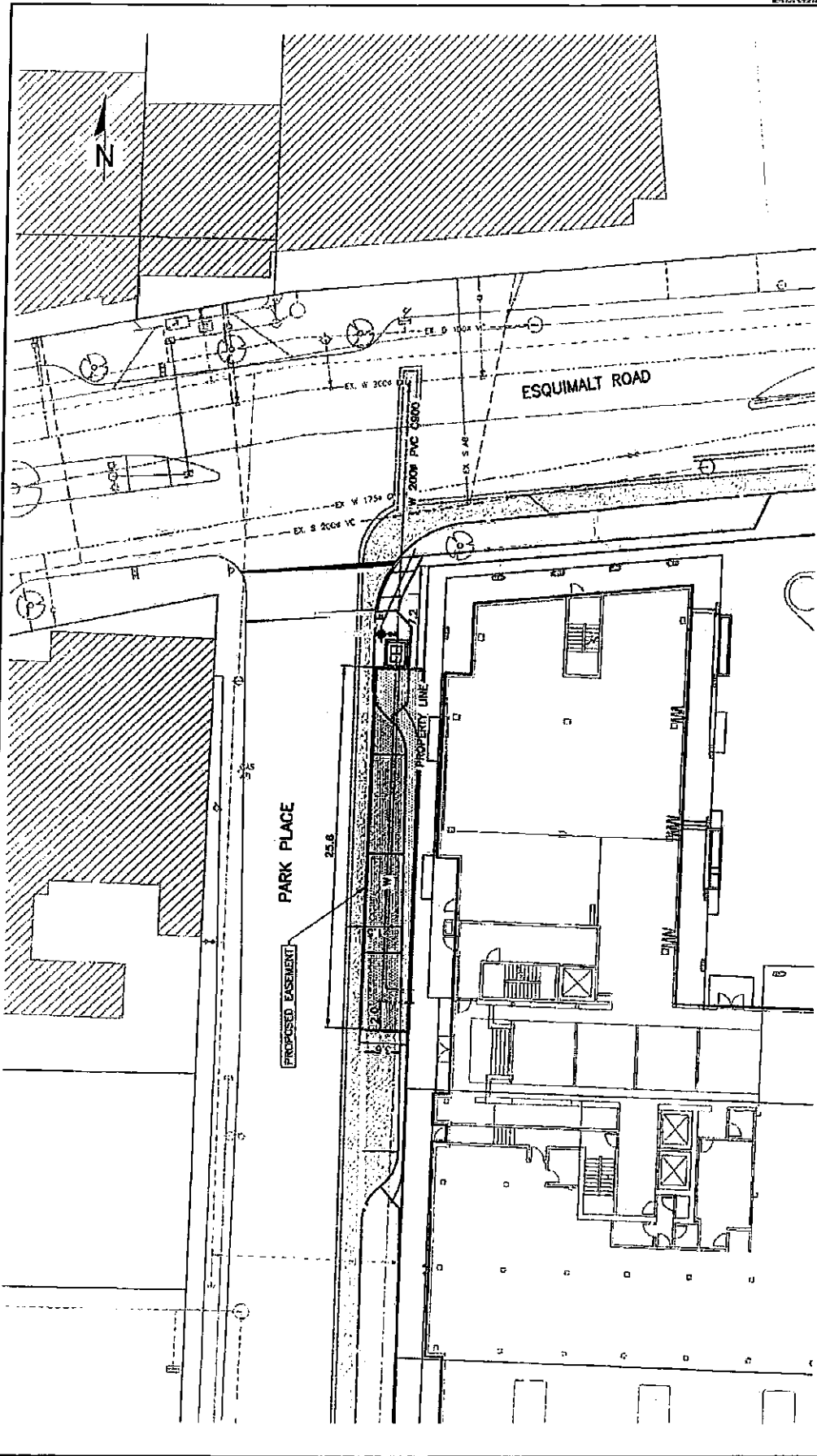
23rd day of July, 2018.

J.E. ANDERSON & ASSOCIATES  
 B.C. Land Surveyors - Consulting Engineers  
 Victoria-Nanaimo-Parksville-Campbell River, B.C.  
 File: 30418

V:\Projects\30418\08\02\Microsurvey\30418 Exp Road.dwg

**SCHEDULE B  
WORKS**

**A water main servicing the Dominant Tenement as defined in the attached Encroachment Easement.**



<p>Project No. SK1          Date: 14/02</p>	<p>ESQUIMALT TOWN CENTRE          ESQUIMALT, B.C.          PARK PLACE - FRONTAGE          WORKS &amp; WATERMAIN          EASEMENT          ART/CH/PL/AN</p>	<p>McElhenny          McElhenny Planning Services Ltd.</p>	<p>Scale: 1:250          0 10</p>	<p>NOT TO SCALE          THIS PLAN IS THE PROPERTY OF MCELHENNY PLANNING SERVICES LTD. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF MCELHENNY PLANNING SERVICES LTD. THE INFORMATION CONTAINED HEREIN IS FOR GENERAL INFORMATION ONLY AND DOES NOT CONSTITUTE AN OFFER OF ANY FINANCIAL PRODUCT OR SERVICE. THE INFORMATION CONTAINED HEREIN IS NOT INTENDED TO BE USED AS A BASIS FOR INVESTMENT DECISIONS. THE INFORMATION CONTAINED HEREIN IS NOT INTENDED TO BE USED AS A BASIS FOR INVESTMENT DECISIONS. THE INFORMATION CONTAINED HEREIN IS NOT INTENDED TO BE USED AS A BASIS FOR INVESTMENT DECISIONS.</p>
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LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

Oct-15-2018 11:38:07.005

CA7127574

1539381818 PAGE 1 OF 3 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Thomas Earl  
Baillie 8CBI24  
Digitally signed by Thomas Earl Baillie 8CBI24  
Date: 2018.10.12 15:03:59 -07'00'

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

**BAILLIE LAW CORPORATION**

Suite 1088

650 West Georgia Street

Vancouver

BC V6B 4N8

Tel: (604) 684-9996

File No: 5124-464

Document Fees: \$71.58

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

**029-349-311**

**LOT 1 SECTION 11 SUBURBAN LOT 40 ESQUIMALT DISTRICT PLAN  
EPP32782**

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Modification**

CA6613272

Modification of SRW

4. TERMS: Part 2 of this instrument consists of (select one only)

(a)  Filed Standard Charge Terms D.F. No.

(b)  Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**ARAGON ESQUIMALT TC PROPERTIES LTD. (INC. NO. BC1068481)**

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

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

1229 ESQUIMALT ROAD

ESQUIMALT

BRITISH COLUMBIA

V9A 3P1

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

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

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

THOMAS E. BAILLIE, Q.C.

Barrister & Solicitor

1088 - 650 West Georgia Street

Vancouver, BC V6B 4N8

Y	M	D
18	09	12

ARAGON ESQUIMALT TC PROPERTIES LTD. by its authorized signatory:

Lenny Moy

OFFICER CERTIFICATION:

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



## **PART 2 – EXPRESS CHARGE TERMS**

### **WHEREAS:**

- A. The Transferor (as defined in item 5 of the attached Form C) is the registered owner of the lands and premises more particularly described in item 2 of the attached Form C (the “Lands”);
- B. By a Statutory Right of Way executed February 1, 2018 and registered in the Land Title Office on February 6, 2018 as number CA6613272, the Transferor did grant a Statutory Right of Way in favour of the Transferee (as defined in item 6 of the attached Form C) over the Lands as defined therein;
- C. The Transferor and the Transferee have agreed to modify the terms of the Statutory Right of Way as herein provided.

WITNESS that in consideration of the premises and the agreement of each of the parties hereto it is hereby agreed as follows:

1. The Statutory Right of Way shall be modified and amended by inserting paragraph 3.1(d) on page 10 as follows:  
  
3.1(d) for greater certainty, and with respect to the existing wheelchair ramp, stairs and related railings, lighting, landscaping, drainage, signage and other appurtenances providing access and egress to the main Esquimalt Road entrance to Township Hall in the Town Square SRW Area, the same rights granted under 3.1(b) but without being subject to the consent requirements of 3.1(c) or the Owner’s reserved rights under 3.5(g) or any other provisos or conditions, as those works are already constructed and public access to Township Hall is essential.
2. The Transferor and the Transferee agree that this agreement shall, from the date of this agreement be read and construed along with the Statutory Right of Way and be treated as part thereof and for these purposes and so far as may be necessary to effectuate these presents the Statutory Right of Way shall be regarded as being amended, and the Statutory Right of Way so amended together with all covenants, agreements, conditions and provisos of the Statutory Right of Way shall remain in full force and effect.
3. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.
4. Wherever the singular or masculine is used throughout this agreement, the plural or feminine, or body corporate or politic, shall be construed where the context or the parties so require.

IN WITNESS WHEREOF the Transferor and the Transferee have caused this agreement to be executed on the day and year stated in item 8 of the attached Form C and the attached Form D.





## NOTICE OF REGISTRATION

**Date of Issue:** October 29, 2018  
**Submitter's Name:** Pamela Hunken  
**File Reference:** BAILLIE TB/JB

**Description:** 5124-464

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**The following application(s) have now reached final status:**

SURVEY PLAN	EPP84906	FILED
PLAN APPLICATION	CA7127571	FILED
FREEHOLD TRANSFER	CA7127572	REGISTERED
MODIFICATION	CA7127574	REGISTERED
EASEMENT	CA7127573	REGISTERED

For help, go to <http://help.ltsa.ca>. To reach the LTSA Customer Service Centre for general land title and survey matters, select option 1 at 604-630-9630 or toll free at 1-877-577-LTSA(5872) or send a request at <https://myltsa.ltsa.ca/contact-customer-service-centre>. For myLTSA sign-up or technical assistance, contact myLTSA Technical Support by selecting option 2 at 604-630-9630 or toll free at 1-877-577-LTSA(5872) or send an request at <https://myltsa.ltsa.ca/contact-myltsa-tech-support>





**TITLE SEARCH PRINT**

2018-10-15, 11:19:37

File Reference:

Requestor: Pamela Hunken

Declared Value \$4613600

**\*\*CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN\*\***

**Land Title District**  
Land Title Office

VICTORIA  
VICTORIA

**Title Number**  
From Title Number

CA6449394  
CA3778393

**Application Received**

2017-11-16

**Application Entered**

2018-02-06

**Registered Owner in Fee Simple**

Registered Owner/Mailing Address:

ARAGON ESQUIMALT TC PROPERTIES LTD., INC.NO. BC1068481  
#201, 1628 WEST 1ST AVENUE  
VANCOUVER, BC  
V6J 1G1

**Taxation Authority**

Capital Assessment Area  
Esquimalt, Corporation of the Township of

**Description of Land**

Parcel Identifier:

029-349-311

Legal Description:

LOT 1 SECTION 11 SUBURBAN LOT 40 ESQUIMALT DISTRICT PLAN EPP32782

**Legal Notations**

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA5863057

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA5871098

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA6009367

LOCAL GOVERNMENT ACT, NOTICE OF PHASED DEVELOPMENT, S.905.6  
SEE CA6449397

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA6836633

**TITLE SEARCH PRINT**

2018-10-15, 11:19:37

File Reference:

Requestor: Pamela Hunken

Declared Value \$4613600

**Charges, Liens and Interests**

Nature: UNDERSURFACE RIGHTS  
 Registration Number: M76301  
 Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA  
 Remarks: INTER ALIA  
 A.F.B. 3.257.3685 DD 289 OS  
 SECTION 172(3)

Nature: STATUTORY RIGHT OF WAY  
 Registration Number: CA5970556  
 Registration Date and Time: 2017-05-03 10:11  
 Registered Owner: BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

Nature: STATUTORY RIGHT OF WAY  
 Registration Number: CA5970557  
 Registration Date and Time: 2017-05-03 10:11  
 Registered Owner: TELUS COMMUNICATIONS INC.  
 INCORPORATION NO. BC1101218

Nature: COVENANT  
 Registration Number: CA6449396  
 Registration Date and Time: 2017-11-16 16:38  
 Registered Owner: CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Nature: STATUTORY RIGHT OF WAY  
 Registration Number: CA6613268  
 Registration Date and Time: 2018-02-06 14:08  
 Registered Owner: CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Nature: COVENANT  
 Registration Number: CA6613269  
 Registration Date and Time: 2018-02-06 14:08  
 Registered Owner: CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Nature: COVENANT  
 Registration Number: CA6613271  
 Registration Date and Time: 2018-02-06 14:08  
 Registered Owner: CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Nature: STATUTORY RIGHT OF WAY  
 Registration Number: CA6613272  
 Registration Date and Time: 2018-02-06 14:08  
 Registered Owner: CORPORATION OF THE TOWNSHIP OF ESQUIMALT

**TITLE SEARCH PRINT**

2018-10-15, 11:19:37

File Reference:

Requestor: Pamela Hunken

Declared Value \$4613600

**Duplicate Infeasible Title**                      NONE OUTSTANDING

**Transfers**    NONE

**Pending Applications**                              NONE

