

LICENCE OF USE AND OCCUPATION EXTENSION SCHOOL BOARD LANDS FOR COMMUNITY USE

THIS AGREEMENT made the _____ day of _____, 2024

BETWEEN:

The Board of Education of
School District No. 68 (Nanaimo-Ladysmith)
395 Wakesiah Avenue
Nanaimo, BC
V9R 3K6
(the **“School District”**)

OF THE FIRST PART

AND:

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC
V9T 6N2
(the **“Licensee”**)

OF THE SECOND PART

WHEREAS:

- A. SCHOOL DISTRICT is the registered owner in fee simple of lands located in the Regional District of Nanaimo, with a civic address of 2120 Ryder Street legally described as:

Parcel Identifiers: 008-569-622, 008-569-631, 008-689-628, 008-689-652, 008-689-679,
008-689-733, 008-689-784, 008-689-806, 008-689-831, 008-696-802

Legal Description: LOTS 1, 2, BLOCK 7, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 719;

LOTS 1, 2, 3, 4, 5, 6, 7, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716;

LOT 4A, BLOCK 6, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716;

(the **“Lands”**);

- B. SCHOOL DISTRICT has re-evaluated the need for the land as part of a comprehensive review which included projected area population increases and the future need for land for school purposes. The review has concluded that, long term, it is premature for SCHOOL DISTRICT to

abandon this property. While construction of a school is not anticipated in the short term, interim use of the land through SCHOOL DISTRICT authorization to the LICENSEE and/or the Extension and District Recreation Commission for recreation use, involving participation to a large extent of students, is anticipated;

- C. the Crown grants specify use of the lands in trust for school purposes and broad implications of the trust would include long range planning;
- D. SCHOOL DISTRICT feels it is premature to declare such lands surplus to the Ministry of Education and Child Care;
- E. the LICENSEE has expressed an interest in utilizing the property in the short and medium term for community recreation purposes and that, the LICENSEE will act as steward of the land minimizing the district cost of holding the property;
- F. the parties agree that the Lands should be made available for community use, including that the Licensee will:
 - a) maintain in good condition the Lands so that the Lands may be used for the benefit of the community during Term of this License, ensuring that at the expiry of this and future agreements the Lands will be returned to the School District in good serviceable condition;
 - b) operate the Lands as a Regional District of Nanaimo Electoral Area C Extension Community Park; and
 - c) may elect to sublet the Lands to the community as it sees fit.
- G. The Licensee wishes to be granted a licence of use and occupation (this "Licence") to have access to, maintain any recreational improvements to be constructed upon and have enjoyment of the Land as identified on the site plan attached hereto as Schedule "A" (the "Licence Area"), and the School District has agreed to grant the Licensee such Licence, on the terms and conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the licence fee to be paid by the Licensee to the School District and in consideration of the premises and covenants and agreements contained in this agreement (the "**Agreement**"), the School District and the Licensee covenant and agree with each other as follows:

1.0 RIGHT TO OCCUPY

- 1.1 The School District, subject to the performance and observance by the Licensee of the terms, conditions, covenants and agreements contained in this Agreement and to earlier termination as provided in this Agreement, grants to the Licensee an exclusive right by way of licence for the Licensee, its agents, employees, and invitees to use the Licence Area for the benefit of the general public, including, without limitation, the improvement, alteration, construction,

operation and management of the Lands for a Regional District of Nanaimo Electoral Area C Extension Community Park, along with all incidental activities that may be associated with such uses, such as activities associated with community programming, sports and recreation, playgrounds, performing arts, public and community meeting spaces, health and wellness services, maintenance and repair of the Improvements and Lands, and any other activities that may be offered at similar community parks with comparable facilities (the "Permitted Uses").

1.2 For clarity, this Agreement does not grant any interest in the Land or the Licence Area to the Licensee.

1.3 Without limitation, the Licensee covenants and agrees to use the Licence Area in accordance with the activities described in paragraph G of the preamble to this Licence, including, without limitation, the improvement, alteration, construction, operation and management of the Lands for a Regional District of Nanaimo Electoral Area C Extension Community Park, along with all incidental activities that may be associated with such uses, such as activities associated with community programming, sports and recreation, playgrounds, performing arts, public and community meeting spaces, health and wellness services, maintenance and repair of the facility and Lands, and any other activities that may be offered at similar community parks with comparable facilities.

2.0 RESERVATION OF RIGHTS

2.1 The School District hereby reserves to itself from the grant and the covenants made by it to the Licensee under Section 1.0 above the right for the School District, its agents, employees, contractors, subcontractors, representatives, invitees, successors and assigns to have full, complete and unrestricted access to the Licence Area at all times as determined in the sole discretion of the School District.

3.0 LICENCE FEE

3.1 In consideration of the right to use granted under this Agreement the Licensee shall pay to the School District \$1.00 for the Term (the "**Licence Fee**").

4.0 TERM

4.1 The term (the "**Term**") of the Licence granted under this Agreement shall be for a period of ten (10) years less two days, commencing on the 1st day of August, 2024 and expiring on the 29th day of July, 2034, unless earlier terminated pursuant to the terms and conditions of this Agreement.

4.2 Within the final year of the Term the parties intend to negotiate in good faith to extend or renew this Agreement.

5.0 TAXES

5.1 The Licensee must pay all taxes, rates, duties, levies and assessments whatsoever, whether federal, provincial, municipal, that are assessed on the Land or otherwise charged to the Licensee or the School District in connection with the Land, in a proportionate share of the size of the Licence Area to the size of the Land, determined by the fraction where the numerator is

the area of the Licence Area and the denominator is the area of the Land, within 30 days of demand by the School District. Without in any way restricting the generality of the foregoing, the Licensee must pay to the School District, together with the Licensee's payment of the Licence Fee to the School District, all applicable taxes on the Licence Fee.

6.0 UTILITIES

6.1 If applicable, the Licensee must install, at its sole cost and expense, separate utility meters at the Licence Area and pay for all utilities consumed on or at the Licence Area on or before the dates that such payments are due.

7.0 COVENANTS OF THE LICENSEE

7.1. The Licensee covenants and agrees with the School District, where applicable, at its sole cost and expense:

- (a) only use the Lands for Permitted Uses as outlined in section 1.1;
- (b) pay the Licence Fee;
- (c) pay when due all taxes, rates, duties and assessments whatsoever, whether federal, municipal, provincial or otherwise, charged upon the Lands as a result of the Licensee's occupation of or use of the Lands;
- (d) pay as they become due all utility bills in respect of the Lands and charges for all utilities;
- (e) as the Lands are serviced by the South West Extension Waterworks District, the Licensee will be responsible for the timely payment of water bills for water usage on the Lands;
- (f) responsible for the installation of a partial perimeter fence of approximately 450 ft of treated wood post and wire lattice around those properties fronting developed roads in Area 2 Schedule "A", to the mutual agreement of both parties upon the termination of this Agreement;
- (g) make improvements on the Lands as outlined in the attached Schedule "B" (the "**Improvements**");
- (i) not to construct any other building, structure, or improvement on the Lands that is not identified in Schedule "B" nor alter the Improvements as constructed, without obtaining prior to any construction the written consent of the School District;
- (h) not commit or permit any waste or injury to the Lands, or commit or permit any conduct which impedes or, in the opinion of the School District acting reasonably, could constitute a nuisance to the School District, occupiers of any other premises adjoining or in the vicinity of the Lands or to the public generally;
- (i) not perform or permit to be performed any activities on the Lands which:

- (i) increase the hazard of fire or liability of any kind, over and above that of activities which are usually carried out at a community park; or
- (ii) which invalidate any policy of insurance for the Lands held by either the School District or the Licensee;
- (j) comply with all applicable local government, provincial, and federal laws, bylaws, regulations, and requirements pertaining to the operation and use of the Lands;
- (k) comply with any notices or requirement of an association of fire insurance underwriters or agents, and comply with all notices issued by them that are served upon the Licensee or the School District;
- (l) provide a receptacle for garbage, and remove such garbage from the Lands at regular intervals;
- (m) keep lands clean and free from any debris, rubbish, leaves, all walks, passages, yards and alleys on or adjacent to the Lands;
- (n) cut the grass and maintain the landscaping on the Lands; and
- (o) at the expiration of the Term, leave the Lands in good condition.

8.0 SCHOOL DISTRICT COVENANTS

- 8.1 The School District covenants and agrees that provided the Licensee pays the Licence Fee and performs its other covenants under this License, the Licensee shall and may peaceably possess and enjoy the Lands for the Term, without any interruption or disturbance from the School District.

9.0 SUBLETTING AND ASSIGNMENT

- 9.1 The Licensee may sublet or license any portion of the Lands to any subtenant without the prior consent of the School District, provided that:

- (a) The subtenant or licensee will use the Lands in a manner that is consistent with the Licensee's obligations under this Licence;
- (b) The use of the Lands by the subtenant or sublicensee will not result in the Licensee being in breach of this License; and
- (c) Upon request from the School District, the Licensee delivers such information as the School District may reasonably require respecting the subtenant or licensee, including the name, address and nature of the activities of the subtenant or licensee.

- 9.2. In no event shall the sublicense of the Lands release or relieve the Licensee from its obligations` to fully perform all the terms, covenants and conditions of this License, unless such release has been expressly sought by the Licensee and granted by the School District.
- 9.3. Without restricting the general permission granted in section 9.1, the School District expressly permits the Licensee may enter into an agreement with Extension and District Recreation Commission (the "**Commission**"), for the operation of the Lands or a portion of the Lands in accordance with the terms of this License. The terms of this agreement may assign any or all of the Licensee's obligations under this License to the Commission. This express permission is deemed to be consent given by the School District pursuant to section 9.2 of this License.

10.0 CONSTRUCTION

- 10.1 The Licensee must not construct or place any buildings, structures or improvements on the Land, unless:
- (a) prior to such construction and/or placement, the Licensee has obtained the School District's approval in writing to the site plans, working drawings, plans, specifications, and elevations with respect to such construction and/or placement, not to be unreasonably withheld; and
 - (b) prior to such construction and/or placement, the Licensee has obtained all applicable municipal permits, approvals and authorizations from the local government authority having jurisdiction over the Land and the construction and/or placement of buildings, structures and improvements set out in such permits, approvals and authorizations, and the plans and specifications attached to them;
 - (c) during such construction and/or placement, the Licensee obtains all applicable inspections from the applicable local government authority, and carries out and completes its work in accordance with all applicable laws and bylaws;
 - (d) all such constructions and/or placements conform with all applicable provincial and federal standards and are in accordance with applicable provincial and federal laws and regulations; and
 - (e) promptly following completion of construction, the Licensee delivers a complete set of final as-built drawings of the works on the Licence Area to the School District.
- 10.2 The Licensee must not erect any signage at the Licence Area without first obtaining the prior written approval of the School District, acting reasonably. Notwithstanding, the foregoing in this Section 10.2, any of the Licensee's signage at the Licence Area must conform with all applicable laws, bylaws and regulations.
- 10.3 The Licensee must keep the Licence Area safe and secured and not permit public access to the Licence Area without first obtaining an occupancy certificate and/or unconditional final inspection approval, as applicable, from the applicable local government authority.

10.4 If the Licensee carries out construction of any buildings, structures or improvements on the Licence Area it must do so only at its sole cost and expense and must afterwards for the duration of the Term, at its sole cost and expense, maintain all such buildings, structures or improvements constructed or placed on the Licence Area in a first-class manner in accordance with the School District's requirements, acting reasonably.

10.5 The Licensee accepts the Licence Area in its "as is, where is" condition on the commencement date of the Term.

11.0 INSPECTION

11.1 The School District by its authorized representatives may enter the Licence Area at any time to inspect the Licence Area or anything thereon.

12.0 INSURANCE

12.1 The Licensee must take out and maintain during the Term a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Land by the Licensee in the amount of not less than five million dollars (\$5,000,000.00) inclusive per occurrence (or such greater amount as the School District may from time to time designate), adding the School District as an additional insured party thereto. Such insurance policy shall include a cross liability clause and a clause requiring the insurer to provide the School District thirty days prior written notice of material change or cancellation. The Licensee must provide the School District with evidence of such insurance in the form of a certificate of insurance prior to commencement of the agreement and on each renewal.

13.0 WORKERS COMPENSATION

13.1 The Licensee will register for and maintain workers compensation coverage in accordance with the Workers Compensation Act (British Columbia) (the "**Workers Compensation Act**"), including, if applicable, Personal Optional Protection coverage, during the Term of the Licence and during any period of construction in the Licence Area during the Term and will provide proof of coverage to the School District upon the request of the School District.

13.2 The Licensee alone will at all times be responsible for the safety of its employees while on the Licence Area and for the safety, adequacy, efficiency and sufficiency of its machines, apparatus and equipment. All work in the Licence Area must comply with all applicable regulations, policies, orders and directives of the Workers Compensation Board of British Columbia.

13.3 The Licensee agrees with the School District that for the Term of the Licence granted herein the Licensee will be the "prime contractor" as defined in the Workers Compensation Act with respect to the Licence Area and any portion of the Land occupied by the Licensee for the purposes of completing the Licensee's work in the Licence Area.

13.4 The Licensee will indemnify the School District for any costs, fines, expenses and penalties that the School District is required to pay as a result of or arising from the Licensee's activities in the

Licence Area which are in breach of the Workers Compensation Act or any regulation, order or directive under the Workers Compensation Act.

14.0 NOTICE OF INJURY OR ACCIDENT

14.1 The Licensee must provide the School District with prompt written notice of any injury or accident occurring in or near the Licence Area, and where reasonable take immediate steps to secure the area and mitigate the risk of any further injury or accident re-occurring, all to the satisfaction of the School District, acting reasonably.

15.0 INDEMNIFICATION

15.1 The Licensee will indemnify the School District and save its elected officials, appointed officers, employees, representatives, agents, successors and assigns harmless from and against any actions or causes of action, claims, lawsuits, damages, costs, loss or expenses of whatever kind which such indemnified parties may sustain, incur or be put to by reason of or arising out of this Licence, or the use of the Licence Area by under this Agreement, or any breach by the Licensee of any of the obligations imposed under this Agreement.

15.2 The Licensee hereby releases and forever discharges the School District and its elected officials, appointed officers, employees, representatives, agents, successors and assigns from any and all claims, demands, actions, suits or other proceedings which the Licensee may have in any matter whatsoever with respect to the Licence Area, including any claims or demands for loss of or damage to machines or equipment brought onto the Licence Area or injuries or death to persons on the Licence Area, pursuant to this Licence, except only to the extent that such loss, damage, injury or death is caused by the negligence of the School District. This release will survive the expiry or earlier termination of this Agreement.

15.3 Except to the extent attributable to the negligence of the School District or those for whom it is responsible in law, the School District will not be liable for any personal injury, death, or property loss or damage sustained by the Licensee, or its employees, agents, representatives, or invitees that arises out of the School District's use of the Licence Area under this Agreement, and the Licensee hereby releases the School District and its elected officials, appointed officers, employees, representatives, agents, successors and assigns from all claims for damages or other expenses arising out of such personal injury, death or property loss or damage and will indemnify and hold harmless the School District and its elected officials, appointed officers, employees, representatives, agents, successors and assigns against all actions or liabilities arising out of such personal injury, death or property damage or loss.

15.4 Without limiting any other provision of this Licence, the Licensee acknowledges and agrees that it will be solely responsible, at its own cost and expense, for all maintenance work on the Licence Area during the Term and for repairing any and all damage to the Licence Area and the works, buildings and improvements thereon. If the Licensee fails to carry out maintenance or repair, then the School District may elect to conduct such maintenance or repair and will be entitled to recover from the Licensee all costs incurred in completing such repairs, plus an administrative fee of 15% of the cost of such maintenance or repairs. The Licensee will pay to the School District the cost of such maintenance or repairs together with such administrative fee forthwith upon demand by the School District.

15.5 Each party shall forthwith, upon receiving any notice of any suit brought against it in connection with the Licence Area, deliver to the other full particulars thereof and render all reasonable assistance requested by the other in defense thereof.

16.0 BUILDERS LIENS

16.1 The Licensee must indemnify and save harmless the School District from and against any builder's liens on the Land that pertain to the Licensee's work on or at the Licence Area and any all costs and expenses associated therewith and must upon the request of the School District immediately cause any registered lien pertaining to work on or at the Licence Area to be discharged from title to the Land.

17.0 NOTICES

17.1 (a) Each notice ("**Notice**") sent pursuant to this Agreement shall be in writing and shall be sent to the relevant party at the relevant address, facsimile number or e-mail address set out below. Each Notice may be sent by registered mail, by commercial courier, by facsimile transmission, or by electronic mail.

(b) The Contact information for the parties is:

The Board of Education of School District No 68 (Nanaimo-Ladysmith)	Regional District of Nanaimo
395 Wakesiah Avenue Nanaimo, BC V9R 3K6	6300 Hammond Bay Road Nanaimo, BC V9T 6N2
Ph: (250)754-5521 Fax: (250)741-5248	Ph: (250)390-4111 Fax: (250)390-4163
ATTN: Secretary – Treasurer	ATTN: General Manager Recreation and Parks

(c) Each Notice sent by electronic mail ("**E-Mail Notice**") must show the e-mail address of the sender, the name or e-mail address of the recipient, and the date and time of transmission, must be fully accessible by the recipient, and unless receipt is acknowledged, must be followed within twenty-four (24) hours by a true copy of such Notice, including all addressing and transmission details, delivered (including by commercial courier) or sent by facsimile transmission.

(d) Subject to section 17.1 (a) through (g) each Notice shall be deemed to have been given or made at the following times:

- i. If delivered to the address (including by commercial courier), on the day the Notice is delivered;
 - ii. If sent by registered mail, seven (7) days following the date of such mailing by sender;
 - iii. If sent by facsimile transmission, on the date the Notice is sent by facsimile transmission; or
 - iv. If sent by electronic mail, on the date the E-Mail Notice is sent electronically by e-mail by the sender.
- (e) If a Notice is delivered, sent by facsimile transmission or sent by electronic mail after 4:00 p.m., or if the date of deemed receipt of a Notice falls upon a day that is a Saturday or Sunday or statutory holiday in the Province of British Columbia, then the Notice shall be deemed to have been given or made on the next business day (being the next day that is not a Saturday or Sunday or statutory holiday in the Province of British Columbia).
- (f) Notice given by facsimile transmission in accordance with the terms of this section 17.1 will only be deemed to be received by the recipient if the sender's facsimile machine generates written confirmation indicating that the facsimile transmission was sent.
- (g) If Canada Post mail service, facsimile or electronic mail is interrupted by strike, slow down, force majeure or other cause beyond the control of the parties, then a Notice sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the Notice shall utilize any other such services which have not been so interrupted or shall personally deliver such Notice in order to ensure prompt receipt thereof.
- (h) Each party shall provide Notice to the other party of any change of address, facsimile number, or e-mail address of such party promptly following such change.

18.0 TERMINATION

- 18.1 If the Licensee is in default on the payment of the Licence Fee, or the payment of any other sum payable by the Licensee under this Agreement, or is in breach of any term of this Agreement, and if the default continues after the giving of thirty days' written notice of such default in writing by the School District to the Licensee, then the School District may terminate this Agreement and the rights of the Licensee with respect to the Licence Area will upon such termination lapse and are absolutely forfeited.
- 18.2 The School District may terminate this agreement if the Licensee, its agents, employees, contractors, subcontractors, representatives, or invitees are found to be purposely in breach of the Licensee's responsibilities under section 22 which has resulted in contamination of the Lands.

18.3 Either party shall be entitled to terminate this Agreement at any time on not less than six (6) months' prior notice to the other party.

19.0 FIXTURES

19.1 Unless the Licensee, upon notice from the School District removes them, all improvements constructed on the School Districts lands by the Licensee shall at the termination of the Agreement become the sole property of the School District at no cost to the School District.

20.0 FORFEITURE

20.1 The School District, by waiving or neglecting to enforce its right to forfeiture under this Agreement, does not waive the School District's rights under this Agreement with respect to any subsequent breach by the Licensee of any provision of this Agreement.

21.0 REPAIRS AND MAINTENANCE

21.1 The Licensee must, at its sole cost and expense, repair and maintain the Licence Area to a good standard of repair and cleanliness and, without limiting the foregoing:

- (a) in accordance with Section 7.1 and Schedule "C" to this Agreement; and
- (b) in compliance with all applicable fire, health, safety, governmental or other regulatory authority requirements.

- 21.2
- (a) If the Licensee fails to repair or maintain the Licence Area in accordance with this Agreement, the School District may, by its agents, representatives, employees or contractors make the required repairs or do the required maintenance and the cost of the repairs or maintenance is a debt due from the Licensee to the School District, together with a 15% administrative fee on such cost.
 - (b) In making the repairs or doing the maintenance, the School District may bring and leave upon the Licence Area the necessary materials, tools and equipment and the School District is not liable to the Licensee for any inconvenience, annoyance, loss of business or other injuries suffered by the Licensee by reason of the School District effecting the repairs or maintenance.

22.0 ENVIRONMENTAL MATTERS

22.1 For the purposes of Section 22.2 to 22.4 below:

- (a) "Contaminants" means any pollutants, contaminants, deleterious substances, underground or above-ground tanks, asbestos materials, hazardous, corrosive, or toxic substances, special waste or waste of any kind, or any other substance which is now or hereafter prohibited, controlled, regulated under Environmental Laws; and

- (b) "Environmental Laws" means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits, and other lawful requirements of any governmental authority having jurisdiction over the Licence Area now or hereafter in force relating in any way to the environment, environmental assessment, health, occupational health and safety, or transportation of dangerous goods, including the principles of common law and equity.

22.2 The Licensee covenants and agrees as follows:

- (a) not to use or permit to be used all or any part of the Licence Area for the sale, storage, manufacture, handling, disposal, use, or any other dealing with any Contaminants, without the prior written consent of the School District, which consent may be arbitrarily and unreasonably withheld;
- (b) the Licensee must not bring on, deposit, store, spray or apply nor cause or permit to be brought on, deposited, stored, sprayed or applied on or to the Licence Area or any trees, bush or vegetation on the Licence Area any chemical fertilizer, herbicide, pesticide or other chemical or petroleum product or any substance which is capable of contaminating the Licence Area or any water on the Licence Area;
- (c) to strictly comply, and cause any person for whom it is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Licence Area;
- (d) to promptly provide to the School District a copy of any environmental site assessment, audit, report, or test results relating to the Licence Area conducted by or for the Licensee at any time;
- (e) to maintain all environmental site assessments, audits, reports, and test results relating to the Licence Area in strict confidence and not to disclose their terms or existence to any third party (including without limitation any governmental authority) except as required by law, to the Licensee's professional advisers and lenders on a need-to-know basis, or with the prior written consent of the School District, which consent may be arbitrarily and unreasonably withheld;
- (f) to promptly notify the School District in writing of any release of a Contaminant or any other occurrence or condition at the Licence Area or any adjacent property which could contaminate the Licence Area or subject the School District or the Licensee to any fines, penalties, orders, investigations, or proceedings under Environmental Laws;
- (g) on the expiry or earlier termination of this Agreement, or at any time if requested by the School District or required by any governmental authority under Environmental Laws, to remove from the Licence Area all Contaminants, and to remediate by removal any contamination of the Licence Area or any adjacent property resulting from Contaminants, in either case brought onto, used at, or released from the Licence Area by the Licensee, or its employees, agents, representatives, invitees, or those doing business with the Licensee, or any person for whom the Licensee is in law responsible. The Licensee shall perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants shall remain the property of the Licensee, notwithstanding any rule of law or

other provision of this Agreement to the contrary and notwithstanding the degree of their affixation to the Licence Area; and

(h) to indemnify and save harmless the School District and its elected officials, appointed officers, employees, agents, representatives, successors, and assigns from any and all liabilities, actions, damages, claims, remediation cost recovery claims, losses, costs, orders, fines, penalties, and expenses whatsoever (including all legal and consultants' fees and expenses and the cost of remediation of the Licence Area and any adjacent property) arising from or in connection with:

- (i) any breach of or non-compliance with the provisions of this Section 22.2 by the Licensee; or
- (ii) any release or alleged release of any Contaminants at or from the Licence Area related to or as a result of the Licensee's use and occupation of the Licence Area.

22.3 The obligations of the Licensee under Section 22.2 above shall survive the expiry or early termination of this Agreement.

22.4 Pre-Existing Contamination

22.4.1 The School District assumes and is solely responsible for, and releases the Licensee (and its elected and appointed officials, employees, contractors, and agents) from and against any and all actions, causes of action, liabilities, demands, claims, losses, damages, costs (including remediation costs, as defined in the *Environmental Management Act*, the costs of complying with any Environmental Laws and any consultant and legal fees, costs and disbursements), expenses, fines and penalties occurring, incurred, accrued or caused before, on or after the date the Licensee commences occupation of the Licence Area arising out of or in any way related to Contaminants in, on, under or migrating to or from the Licence Area up to the date the Licensee commences occupation of the Licence Area, and any mandatory or voluntary remediation, mitigation or removal of any such Contaminants;

22.4.2 the School District will indemnify and save harmless the Licensee (and its elected and appointed officials, employees, contractors, and agents) from and against any and all actions, causes of action, liabilities, demands, claims, losses, damages, costs (including remediation costs, as defined in the *Environmental Management Act*, the costs of complying with any Environmental Laws and any consultant and legal fees, costs and disbursements), expenses, fines and penalties occurring, incurred, accrued or caused before, on or after the date the Licensee commences occupation of the Licence Area, which the Licensee, or its elected or appointed officials, employees, contractors or agents, may suffer, incur, be subject to or liable for, whether brought against any one or more of them by the School District or any other person, or any government authority or agency, arising out of or in any way related to or in connection with the Licensee's use of the Licence Area, including the presence of Contaminants in, on, under or migrating to or from the Licence Area on the date the Licensee commences occupation

of the Licence Area, and any mandatory or voluntary remediation, mitigation or removal of any such Contaminants; and

- 22.4.3 without limiting the rest of this section 22.4, for the purpose of allocation of remediation costs pursuant to the *Environmental Management Act*, including and after the date the Licensee commences occupation of the Licence Area, the School District will be, as between the School District and the Licensee, solely responsible for the costs of any mandatory or voluntary remediation of the Licence Area under that Act with respect to Contaminants in, on, under or migrating to or from the Licence Area on the date the Licensee commences occupation of the Licence Area and this binds the School District with respect to any allocation of remediation costs, as defined by that Act, by any procedure under that Act.

23.0 REMEDIAL ACTION

- 23.1 (a) If the Licensee fails to do anything required of the Licensee under this Agreement, (the "Licensee Requirement") the School District may fulfill or complete the Licensee Requirement at the cost of the Licensee and may, if necessary, by its agents, officers, employees or contractors enter onto the Land to fulfill and complete all or part of the Licensee Requirement as the School District determines in its sole discretion.
- (b) The Licensee releases the School District, its elected officials, appointed officers, employees, representatives, agents, successors and assigns from and waives any claim, right, remedy, action, cause of action, loss, damage, expense, fee or liability which the Licensee may have against any or all of them in respect of an act of the School District under this section or Section 22.0 except insofar as such claim, right, remedy, action, cause of action, loss, damage, expense, fee or liability arises from the gross negligence of the School District, its elected officials and appointed officers, employees, agents, representatives or contractors.

24.0 CLEAN UP

- 24.1 At the discretion of the School District, at the end of the Term, the Licensee must clean up the Licence Area and restore the surface of the Licence Area as reasonably as may be possible to the condition of the Licence Area prior to the commencement of the Term of this Agreement.

25.0 REGULATIONS

- 25.1 The Licensee must comply promptly at its own cost and expense with the legal requirements of all authorities with jurisdiction over the Lands and/or the Licensee, including an association of fire insurance underwriters or agents, and all notices issued under them that are served upon the School District or the Licensee.

26.0 NO COMPENSATION

- 26.1 The Licensee is not entitled to compensation for any loss, including economic loss, or injurious affection or disturbance resulting in any way from the termination of the Licence or the loss of

the Licensee's interest in any building, structure or improvement built or placed on the Licence Area.

27.0 MISCELLANEOUS

- 27.1 (a) The Licensee covenants with and represents to the School District that the execution and delivery of this Agreement, and the completion of the transactions contemplated by this Agreement, if any, have been duly and validly authorized by all necessary governmental and/or statutory action of the Licensee, and this Agreement constitutes a legal, valid and binding obligation of the Licensee, enforceable against the Licensee in accordance with its terms.
- (b) In consideration of being granted access to and use of the Licence Area, the Licensee agrees to be bound by the terms and conditions of this Agreement and, if the Licensee represents a group or organization, the Licensee agrees to inform all responsible persons associated with the group or organization of the terms and conditions of this Agreement.
- (c) Waiver of any default by a party is not a waiver of any subsequent default.
- (d) This Licence is personal to the Licensee and the Licensee may not assign its interest to any other person without the written consent of the School District, which consent may be withheld by the School District in its sole discretion.

30.0 INTERPRETATION

- 30.1 (a) That when the singular or neuter are used in this Agreement, they include the plural or the feminine or the masculine or the body politic or corporate or statutory where the context or the parties.
- (b) The headings to the sections 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.
- (c) That this Agreement must ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assignees.
- (d) This Agreement must be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- (e) 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.
- (f) A provision in this Agreement granting the School District a right of approval must be interpreted as granting a free and unrestricted right to be exercised by the School District in its sole discretion.
- (g) This is the entire agreement between the parties with respect to the Licence granted herein.

- (h) Time is of the essence of this Agreement.
- (i) No amendments to this Agreement will be binding on the parties unless mutually agreed by the parties, made in writing and executed by the signing authority for each party.
- (j) Each of the parties, and each person acting for either of them in doing any act or making any determination under this Agreement, will act reasonably, in good faith and in accordance with commercially reasonable standards.
- (k) If the parties have any dispute with respect to any issue in this Agreement, such dispute shall be determined by the arbitration of one arbitrator (to be selected by mutual agreement of the School District and the Licensee under the Commercial Arbitration Act (British Columbia) and amendments thereto, or any like statute in effect from time to time, and the decision of such arbitrator will be final and binding upon the parties. The cost of such arbitration will be awarded in the arbitrator's discretion. Except as otherwise provided for herein, the provisions of the Commercial Arbitration Act (British Columbia) will apply.
- (l) This Agreement may be executed in counterparts, with the same effect as if the parties had signed the same document. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the date set forth above. In addition, this Agreement may be executed by the parties and delivered by facsimile or other electronic transmission and if so executed and delivered this Agreement will be for all purposes as effective as if the parties had delivered an originally executed Agreement.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

THE BOARD OF EDUCATION OF)
SCHOOL DISTRICT NO. 68 (NANAIMO-LADYSMITH))

By its authorized signatories:)
)
)
)
)

_____)
Name:)
)
)
)
)

_____)
Name:)
)
)
)
)

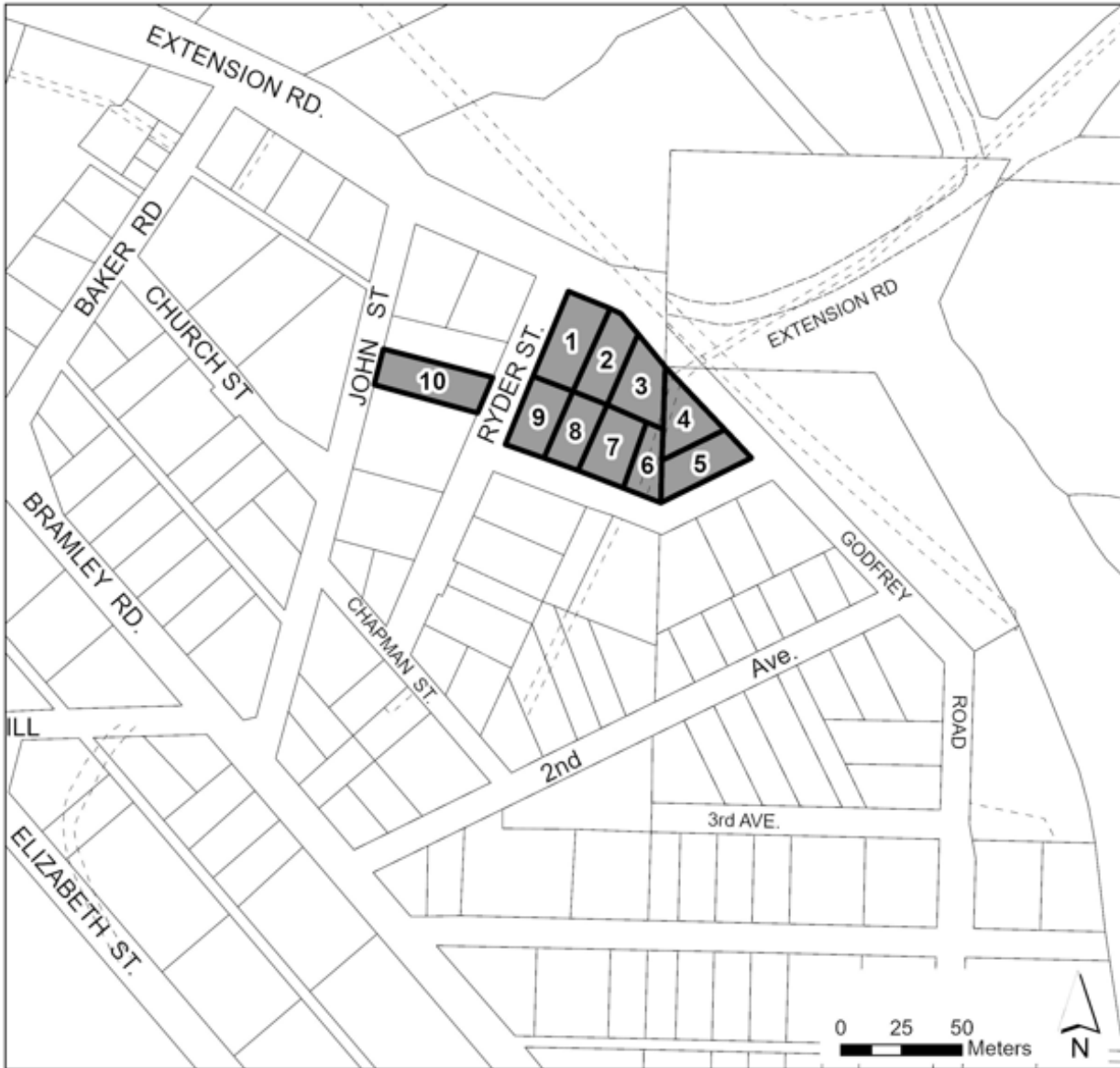
REGIONAL DISTRICT OF NANAIMO)
By its authorized signatories:)

)
)
)
)
)
)

_____)
Name:)
)
)
)
)

_____)
Name:)
)
)
)
)

SCHEDULE "A" Licence Area



Subject Properties:

LOT ID	PID	LEGAL DESCRIPTION
1	008689831	LOT 7, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
2	008689806	LOT 6, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
3	008689784	LOT 5, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
4	008569631	LOT 2, BLOCK 7, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 719
5	008569622	LOT 1, BLOCK 7, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 719
6	008689733	LOT 4, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
7	008689679	LOT 3, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
8	008689652	LOT 2, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
9	008689628	LOT 1, BLOCK 1, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716
10	008696802	LOT 4A, BLOCK 6, SECTION 12, RANGE 2, CRANBERRY DISTRICT, PLAN 716

May 2024



Aerial map showing Licence Area in Red.

EXTENSION PRIMARY

- 2120 & 2124 Ryder Street, Regional District of Nanaimo
- 1.05 acres total
(Area 1 – 0.91 acres; Area 2 – 0.14 acres)
- Area 1 - SD 68 with Crown reverter on title,
Area 2 - SD 68 outright (encumbered by water service ROW)

Schedule "B" – Pre-approved Improvements

Pre-approved Improvements

The School District and the Licensee agree that the following list is an example of pre-approved recreational improvements that are permitted under the Licence:

- Softscape
 - Benches
 - Bicycle skills park
 - Picnic tables/shelter
 - Irrigation works
 - Drinking fountain
 - Covered gathering area
 - Playground
 - Multi Sport Court
 - Parking Area
- Not limited to but including similar recreational furnishings as found on comparable Community Parks.

Licence Area Concept Plan



Potential Category “A” Projects

- ① **Multi-sport Court**
 - New 15x24m asphalt playing surface
 - Basketball hoops
 - Options for chain-link fencing or boarding
 - Alternate location shown as ①b
 - Benches included
- ② **Parking Area Expansion**
 - 90° gravel parking along Ryder Street (approx. 14 stalls)
 - Existing ditch filled / drained
 - Split-rail fence separation
- ③ **Covered Picnic Area**
 - 9x6m timber covered shelter
 - Located with views to multi-sport court and playground (preferred location requires relocation of swings)
 - 4 picnic tables
- ④ **Equipment Shed**
 - 5x5m cinder block building to store mowing equipment and hand tools
 - Electrical connection
- ⑤ **Open Space Upgrades**
 - Remnant concrete and gravel removed
 - Lawn seeding
 - Potential for overflow or future parking

Potential Category “B” Projects

- ⑥ **Bike Skills Area**
 - Select tree and brush clearing to remove invasive species and hazard trees (healthy trees and shrubs to remain)
 - Bike track and features
 - Reseeding and naturalization of cleared area
 - Ongoing maintenance of invasive species
- ⑦ **Playing Field Infield Updates**
 - Softball infield reskinned and upgraded
 - Dugouts upgraded and backstop repaired
- ⑧ **Playing Field Grass Updates**
 - Grass field upgraded to sand base with drainage
 - Irrigation installed
 - Spectator bleachers added
- ⑨ **Trails Network**
 - 2m wide continuous asphalt surface
 - Gravel as cost-savings option
 - Three potential phases:
 - ⑨a Main park loop
 - ⑨b John Street connection
 - ⑨c Lower loop
 - Select brush clearing as needed
 - Benches at intervals (potentially using bench dedication program)
- ⑩ **Playground Expansion**
 - Relocated swings
 - Potential future tot-lot equipment
- ⑪ **Tennis Court Decommissioning**
 - Decommissioning of former tennis court and part of parking area and lawn seeding
 - Long-term potential for area to accommodate future community hall
- ⑫ **Waste Management**
 - Waste receptacle near proposed picnic area
 - Ongoing maintenance required
- ⑬ **Shade Tree Planting (throughout park)**
 - New trees added at key locations
 - Potential to utilize tree dedication program

SCHEDULE "C"

Repair and Maintenance

1. Without limitation to the Licensee's obligations under this Agreement to repair and maintain the Licence Area and the buildings, structures and/or improvements thereon, the Licensee must ensure that the Licence Area is repaired and maintained as follows:
 - a) Garbage is picked up and removed from the site at least weekly.
 - b) Lawns, landscaping and plant material are maintained, cut, pruned and weeded at least monthly.
 - c) Facility inspections for safety and repairs are carried out at least monthly, and repairs and/or maintenance work required as a result of such inspections are completed promptly thereafter.
 - d) Maintenance and repairs take place regularly and as required.
 - e) If the Licensee uses the Licence Area for a community event, cleanup of the Licence Area will be completed immediately following such event.