

BT114184

-9 APR 2002 10 15

BT114185

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office use)

Page 1 of 12

2#15

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

Neil Kornfeld
KORNFELD MACKOFF SILBER
1100 - 505 Burrard Street
Vancouver, BC V7X 1M5
(604) 331-8300

Peg Forrester
Applicant's Agent
West Coast
Client # 10350

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: (PID) (LEGAL DESCRIPTION)

015-974-669

District Lot 512 Group 1 New Westminster District Except Portions in Plans 14003, 14937 and 15403

3. NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

Section 219 Covenant

Entire Instrument

Transferee

Priority Agreement granting s.219
Covenant BT114184 Priority
over Mortgage BR305052 and
Assignment of Rents BR305053

Page 12

Transferee

88 02/04/09 10:10:22 01 LM 359950
CHARGE \$110.00

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

(a) Filed Standard Charge Terms

— D.F. No.

(b) Express Charge Terms

X

Annexed as Part 2

(c) Release

— There is no Part 2 of this Instrument.

A selection of (a) include any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

SEA TO SKY FOUNDATION, (Inc. No. 43882) (as to Section 219 Covenant) and 614046
B.C. LTD. (Inc. No. 614046) (as to Priority)

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

DISTRICT OF SQUAMISH, a municipality incorporated under the Local Government Act,
R.S.B.C. 1996, c.323 and having its office at 37955 2nd Avenue, P.O. Box 310, Squamish,
BC V0N 3G0

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

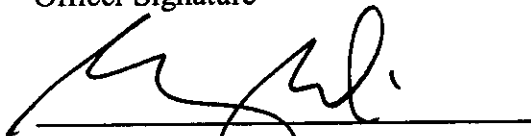
7. ADDITIONAL OR MODIFIED TERMS:*
N/A

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

Execution Date
Y M D


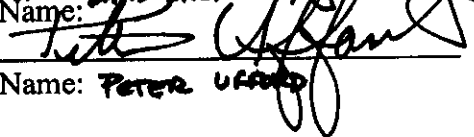
Transferor Signature

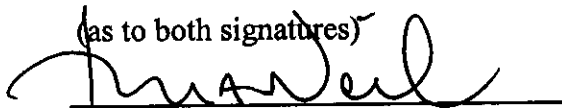


2002 04 06

SEA TO SKY FOUNDATION by
its authorized signatory(ies):

E. Neil Kornfeld
Barrister & Solicitor
1100 - 505 Burrard Street
Vancouver, B.C., V7X 1M5
Telephone: (604) 683-0500

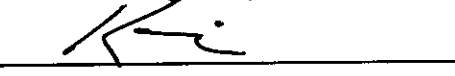

Name: DAVID STRANGWAY

Name: Peter Ufford

(as to both signatures)


2002 04 08

614046 B.C. LTD. by its
authorized signatory(ies):

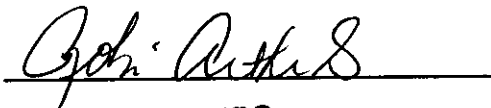
JOHN A. NEIL
Barrister & Solicitor
1000 CATHEDRAL PLACE
925 WEST GEORGIA STREET
VANCOUVER, B.C. V6C 3L2
TELEPHONE: (604) 682-8808


Name: KIM MOLLER

Kim Moller
(as to both signatures)

Name:

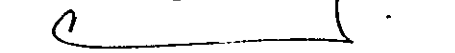
Transferee Signature



2002 04 05

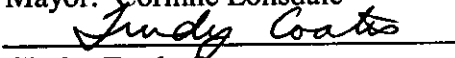
DISTRICT OF SQUAMISH by its
authorized signatory(ies):

ROBIN ARTHURS
Deputy Clerk
A Commissioner for taking
Affidavits within British Columbia
37955 Second Avenue
Squamish, B.C.



Mayor: Corinne Lonsdale

(as to both signatures)


Clerk: Trudy Coates

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.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

TERMS OF INSTRUMENT – PART 2**SECTION 219 COVENANT**

THIS AGREEMENT dated for reference April 6, 2002 is

BETWEEN:

SEA TO SKY FOUNDATION

(Inc. No. 43882)

790 – 1500 West Georgia Street

Vancouver, BC V6G 2Z6

(the "Owner")

AND:

DISTRICT OF SQUAMISH, a municipality incorporated under the *Local Government Act*, R.S.B.C. 1996, c.323 and having its office at 37955 2nd Avenue, P.O. Box 310, Squamish, BC V0N 3G0

(the "District")

WHEREAS the Owner is the owner of land in the District legally described as District Lot 512 Group 1 New Westminster District Except Portions in Plans 14003, 14937 and 15403 (the "Land"); and

WHEREAS the Owner wishes to use the Land for the development of a private university, and for that purpose has applied to the District to amend the Official Community Plan and Zoning Bylaw of the District by means of Bylaw No. 1652, 2001 (the "OCP Amendment") and Bylaw No. 1653, 2001 (the "Zoning Amendment") respectively; and

WHEREAS the Owner's applications do not include the level of detailed information that is ordinarily required by the District to support amendment of the Official Community Plan or the Zoning Bylaw, and the OCP Amendment therefore contemplates that the Owner will grant to the District covenants under s.219 of the *Land Title Act* restricting the subdivision and development of the Land until the Owner takes further steps to ensure that the development of the Land as envisioned by the OCP Amendment and the Zoning Amendment will be in the public interest; and

WHEREAS the Owner and the District have as of the reference date of this Agreement agreed in principle on the terms of a partnering agreement setting out their respective obligations in the development of the private university, and a community use agreement in respect of certain social and recreational facilities to be constructed by the Owner of the Land (the "Community Use Agreement") each of which agreements is dated March 22, 2002, and the parties wish to ensure that certain of the Owner's obligations under the Community Use Agreement run with the Land;

WHEREAS the Owner and the District have as of the reference date of this Agreement substantially agreed in principle on the terms of a construction and financing agreement dated March 22, 2002 in respect of certain off-site works to be constructed by the Owner and the District to service the private university, which agreement when executed by the parties shall be the "Construction and Financing Agreement" referred to in this Agreement, and the parties wish to ensure that certain of the Owner's obligations under the Construction and Financing Agreement run with the Land;

WHEREAS s.219 of the *Land Title Act* enables the Owner to grant to the District covenants in respect to the use and subdivision of land, that are binding on the Owner and its successors in title even though the covenants are not annexed to land owned by the District;

THIS AGREEMENT is evidence that in consideration of payment of \$1.00 by the District to the Owner (the receipt of which is acknowledged by the Owner), the Owner grants to the District in accordance with s.219 of the *Land Title Act* the following covenants:

1. The Owner shall not subdivide the Land, nor shall the Owner construct, erect or use any building or structure on the Land, except in accordance with the Schedule of Restrictions attached to this Agreement as Schedule A. The Owner acknowledges that the District shall, despite any of its bylaws, be under no obligation to issue a permit for any building or structure, and the approving officer of the District shall be under no obligation to approve any subdivision of the Land, unless the Owner is in compliance with Schedule A.
2. Any opinion, decision, act or expression of satisfaction provided for in this Agreement is to be taken or made by the District's Director of Community Development or his or her delegate authorized as such in writing, in each case acting reasonably.
3. The Owner may request a discharge of this Agreement in respect of any parcel into which the Land may be subdivided, other than a parcel comprising the Campus Area or any part of it, and the District shall execute by its authorized signatories and deliver a discharge of this Agreement if the Owner is in compliance with Schedule A at the time the discharge is requested. In the case of Campus Lands other than the Campus Area, the Owner shall not be entitled to a discharge until one year after the date of adoption of bylaws amending the Official Community Plan and the Zoning Bylaws such that university uses are no longer permitted on the Land in question, unless the Owner grants a further covenant to the District under s. 219 of the *Land Title Act* prohibiting university uses on the Land in question.
4. The Owner may request a discharge of any particular covenant granted in this Agreement in respect of any parcel into which the Land may be subdivided and the District shall execute by its authorized signatories and deliver a discharge in respect of any such covenant that has been, in the District's opinion, fully satisfied by the Owner.
5. The Owner releases, and must indemnify and save harmless, the District, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement.

6. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
7. The rights given to the District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the District to anyone, or obliges the District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
8. Where the District is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the District is under no public law duty of fairness or natural justice in that regard and agrees that the District may do any of those things in the same manner as if it were a private party and not a public body.
9. This Agreement does not:
 - (a) affect or limit the discretion, rights or powers of the District under any enactment (as defined in the *Interpretation Act*, on the reference date of this Agreement) or at common law, including in relation to the use of the Land,
 - (b) affect or limit any enactment related to the use of the Land, or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use of the Land.
10. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the *Land Title Act* in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
11. The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
12. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
13. 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

Page 6

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.

- 14. This Agreement is the entire agreement between the parties regarding its subject.**
- 15. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.**
- 16. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instrument.**
- 17. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.**

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C that is attached hereto and forms part of this Agreement.

SCHEDULE A
SCHEDULE OF RESTRICTIONS

Interpretation

1. References to Figure 4 in this Schedule and the Agreement of which it forms a part are references to Figure 4 included in the Sub Area Plan added to the Official Community Plan by the OCP Amendment, a copy of which is attached as Schedule B, references to the "Campus Area" are references to the Campus Area on Figure 4, and references to the "Campus Lands" are references to the Campus Area together with the portion of the Lands shown as Housing Area/Potential Campus Area on Figure 4.

Development Permit Area Designation

2. The Land shall not be subdivided until the portions of the Lands shown as Campus Area, Housing Area and Housing Area/Potential Campus Area on Figure 4 have been designated in the District's Official Community Plan as development permit areas for commercial, multi-family residential and intensive residential development, according to the nature of the development permitted in those areas by the Zoning Amendment, by a further amendment to the Official Community Plan. Only those single-family residential development areas in which subdivision into lots with areas less than 6,000 square feet, or development of single-family dwellings at a density greater than one dwelling per 6,000 square feet, are permitted or intended to be permitted shall be designated as intensive residential development permit areas. This restriction shall not preclude a subdivision creating a single additional parcel for the university campus indicated on Figure 4 (the "Campus Subdivision"). The Owner specifically agrees to the designation of the Campus Area for the establishment of objectives and specification of guidelines for the form and character of commercial development, and that it shall not construct any building or structure in that area without first obtaining a development permit.

Plan of Development of Non-Campus Lands

3. Prior to submitting any subdivision application other than the application for the Campus subdivision, the Owner shall provide to the District a general plan for the area proposed to be subdivided indicating proposed land uses, including numbers and types of dwelling units in the case of residential development; proposed road and trail networks and linkages; and proposed open space. Concurrently with each application for subdivision except the Campus subdivision, the Owner shall provide to the District a plan of the Land indicating the proposed distribution on the Land of any dwelling units permitted by the Zoning Amendment the construction of which has not as of that time been authorized by the issuance of a development permit or building permit. Nothing in this section requires the Owner to prepare a plan showing the location of any dwelling proposed to be constructed on a single-family or two-family lot.

Parks and Open Space

4. Prior to any subdivision of the portion of the Land shown as Housing Area and Housing Area / Potential Campus Area on Figure 4, the Owner shall provide to the District for

approval a plan for the development of a neighbourhood park on the Land (the "Neighbourhood Park Plan") that deals with the development of the Main Park Area referred to in paragraph 5 and the School/Park Area referred to in paragraph 7, including options for its development both with and without the development of an elementary school. The Plan shall identify park facilities and uses, and without limiting the generality of the foregoing shall specify the location and conceptual design of children's play equipment and picnic facilities.

5. Concurrently with the first subdivision of the Land (excluding the Campus Subdivision) the Owner shall dedicate the central portion, comprising 7 acres, of the area shown as Park Area on Figure 4 being the area immediately adjoining the label "Park Area" (the "Main Park Area"), and construct or enter into an agreement with the District to construct in the Main Park Area, or contribute to the District cash in lieu thereof, such trails and picnic facilities as have been identified in the approved Neighbourhood Park Plan. The park area shall be cleared and graded to the level of surrounding lands in a manner consistent with the approved Neighbourhood Park Plan. Thereafter, upon any further subdivision of the Land the Owner shall dedicate to the District as park land such portions of the area shown as Park Area on Figure 4 as lie within the area (other than any subdividable remainder of the Land) being subdivided, and construct or enter into an agreement with the District to construct in those park areas, or contribute to the District cash in lieu thereof, such trails as the District may specify. All picnic facilities and trails required in this paragraph shall be constructed to the District's generally applicable standards, and the picnic facilities and trails referred to in the first sentence of this paragraph shall be constructed by the time the Owner has constructed either 100 single-family dwelling units or a total of 200 dwelling units of any type upon the portion of the Land shown as Housing Area and Housing Area/Potential Campus Area on Figure 4.
6. In the event that the Board of School Trustees for School District No. 48 (Howe Sound) has not constructed, or identified in its capital plan funds for the construction of, children's play equipment in the School/Park Area referred to in paragraph 7, by the time the Owner has constructed either 100 single-family dwelling units or a total of 200 dwelling units of any type upon the portion of the Land shown as Housing Area and Housing Area/Potential Campus Area on Figure 4, the Owner shall at its expense construct such children's play equipment within the Main Park Area, to the standards of the District, before constructing any further dwelling units.

Elementary School

7. Concurrently with the first subdivision of the Land (excluding the Campus Subdivision) the Owner shall reserve from development the area shown as School/Park Area on Figure 4 (the "School/Park Area"), by the grant of a covenant under s.219 of the *Land Title Act* to the District restricting the use of the land to public elementary school use. The restriction in this paragraph shall not preclude the Campus Subdivision or the construction of buildings or structures on one parcel created by that subdivision. In the event that the Board of School Trustees for School District No. 48 (Howe Sound) advises the District in writing that an elementary school will not be constructed in the School/Park Area, the Owner shall dedicate the area to the District as a park at no cost, excepting thereout such portions of the area fronting on a highway as the Owner and the District may agree, to be used by the Owner for the development of residential lots. The

dedication shall occur not later than four months following the subdivision of the residential lots, the land shall be cleared and graded to the level of surrounding lands in a manner consistent with the approved Neighbourhood Park Plan, and the Owner shall construct picnic facilities on the land in accordance with the Neighbourhood Park Pan if such facilities have not already been provided pursuant to paragraph 5. In the event that the Board of School Trustees advises the District in writing that an elementary school will be constructed in the School/Park Area, the Owner shall forthwith transfer the School/Park Area to the Board of School Trustees for nominal consideration. Nothing in this Schedule of Restrictions precludes the Owner from entering into an agreement with the Board of School Trustees with respect to the recovery of a reasonable proportion of the cost of off-site services installed by the Owner to service the School/Park Area.

Phasing of Development

- 8. The Owner shall construct university facilities including permanent housing for students and community amenities in accordance with the following schedule, and acknowledges that the District shall be under no obligation to issue any building permit for a building anywhere on the Campus Lands if the Owner is not in compliance with this schedule. The Owner shall not subdivide from the Land parcels in the areas shown as Housing Area and Housing Area/Potential Campus Area on Figure 4 that have, under the Zoning Amendment, development capacity for dwelling units in excess of the number specified in the fifth column of the schedule, until it has provided the community amenities, academic facilities and student housing specified in the schedule for the corresponding year. In this paragraph, the five community amenities are an outdoor sport field, gymnasium, library, fitness room and meeting rooms, all of which are subject to the Community Use Agreement, and the numbers in the fourth column of the schedule refer to the cumulative number of amenities that must be provided by the end of the corresponding year in the first column.

Year	Student Housing	Academic Facilities	Community Amenities	Housing Units
2004	100 Students	200 Students	2	175
2005	200 Students	200 Students	3	275
2006	300 Students	400 Students	5	375
2007	400 Students	400 Students		960

Community Use Facilities

- 9. The Owner shall construct the Facilities as defined in the Community Use Agreement in accordance with the sequence set out in Schedule A to that agreement in relation to the development of the Campus Area, and thereafter shall comply with the terms of the Community Use Agreement.

Off-Site Services

10. The Owner shall not subdivide the Land, use any part of the Land for university or residential development, or construct any building or structure on the Land, unless the Owner has executed the Construction and Financing Agreement and is in compliance with the obligations of the Sea to Sky Foundation under the Construction and Financing Agreement in respect of the construction of the Works, as defined in that agreement, serving the Land. The Owner agrees to perform all of the obligations of the Sea to Sky Foundation under the Construction and Financing Agreement, including without limitation the obligations to pay Development Charges and make Supplementary Payments, each as defined in the Construction and Financing Agreement. The Owner acknowledges that, in the event that the Construction and Financing Agreement is not executed, the provision of works and services in connection with the subdivision and development of the Land is governed by the District's bylaws under s.938 of the *Local Government Act* and any servicing agreement that may be entered into under s.940 of the *Local Government Act*.






Fire Protection

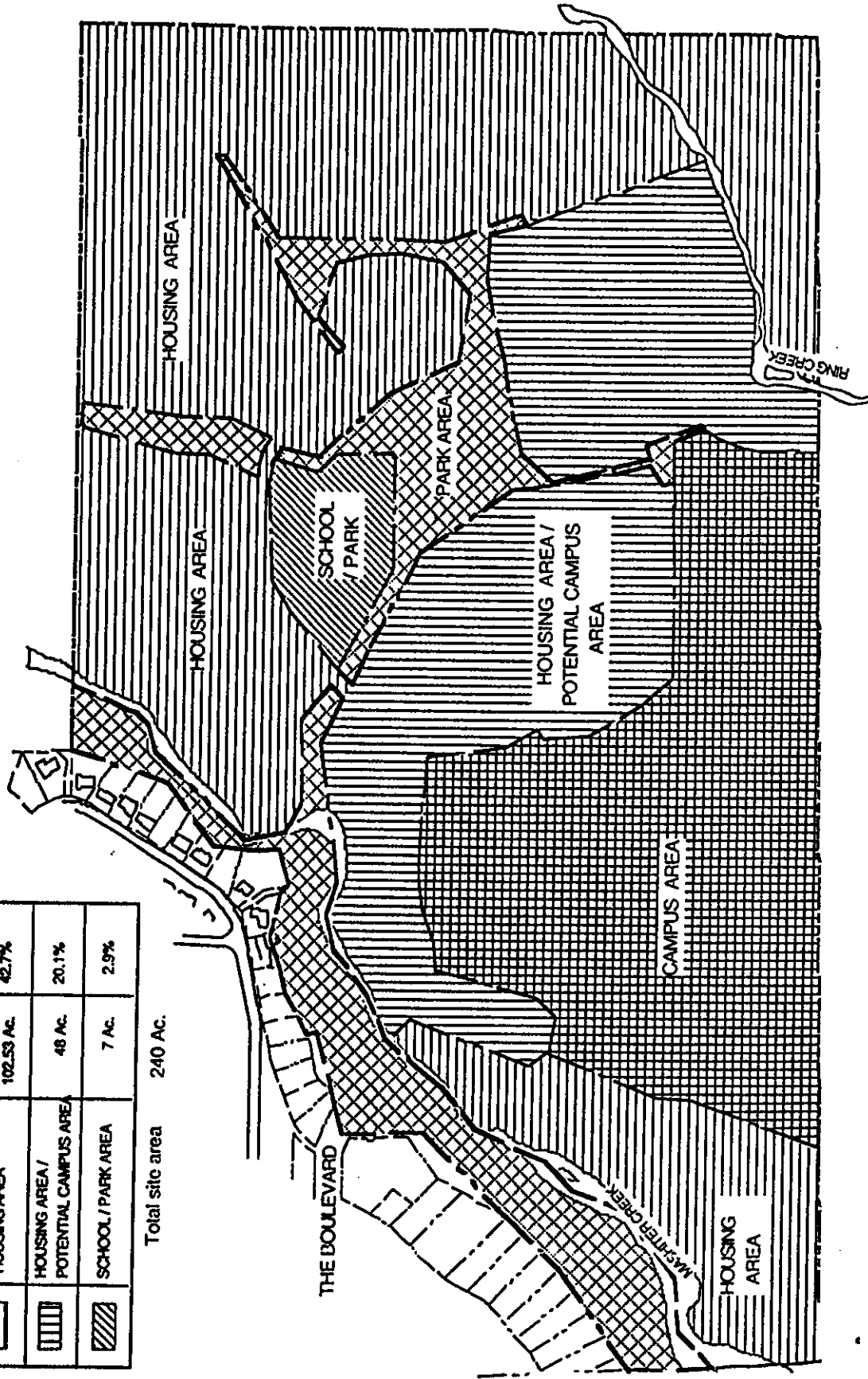
11. The Owner shall, with the exception of the Campus Subdivision, not subdivide the Land, and shall not construct any building or structure on the Land, unless the Owner has provided to the District a fire protection plan satisfactory to the District and prepared by a qualified person acceptable to the District, dealing with the provision of fire suppression and emergency response services to the Land. Unless the fire protection plan identifies an alternative to the establishment of a fire hall on the Land that is acceptable to the District, the Owner shall at its cost provide a portion of the Land for, and construct on the Land to the standards of the District, a fire hall together with associated landscaping and motor vehicle parking spaces required by the District's bylaws, and make the fire hall available for the exclusive use of the District in the provision of fire suppression and emergency response services in accordance with the fire protection plan, by way of a lease or on other terms satisfactory to the District, but the parties expressly acknowledge that the District shall have no obligation to pay rent or make any payment in lieu of rent. The fire hall shall be constructed in sufficient time that it can be fully operational by any date specified in the fire protection plan for the provision of such a facility on the Land, and in no event later than 2007.

SCHEDULE B

Figure 4 - LAND USE PLAN
Sea to Sky University Sub Area Plan

4
NORTH
March 1, 2002

LEGEND		Acres	% of site
	PARK	30.47 Ac.	12.7%
	CAMPUS AREA	52 Ac.	21.6%
	HOUSING AREA	102.53 Ac.	42.7%
	HOUSING AREA / POTENTIAL CAMPUS AREA	48 Ac.	20.1%
	SCHOOL / PARK AREA	7 Ac.	2.9%
		Total site area	240 Ac.



information from Vaughan Landscape Planning & Design

PRIORITY AGREEMENT**BETWEEN:**

DISTRICT OF SQUAMISH, a municipality incorporated under the *Local Government Act*, R.S.B.C. 1996, c.323 and having its office at 37955 2nd Avenue, P.O. Box 310, Squamish, BC V0N 3G0

(the "Subsequent Chargee")

AND:

614046 B.C. LTD., (Inc. No. 614046)

(the "Prior Chargee")

WHEREAS:

- A. Sea to Sky Foundation (the "Owner") is the owner of that parcel of land and premises located in the District of Squamish and legally described as Parcel Identifier: 015-974-669, District Lot 512, Group 1, New Westminster District, Except Portions in Plans 14003, 14927 and 15403 (the "Land");
- B. The Owner (or his predecessor in title) granted the Prior Chargee a mortgage and assignment of rents which are registered against the title to the Land in the Vancouver/New Westminster Land Title Office under numbers BR305052 and BR305053 respectively (the "Prior Charge");
- C. On the ^{6th} ~~2nd~~ day of April, 2002 the Owner granted the Subsequent Chargee a Section 219 Covenant which is registered against the title to the Land in the Vancouver/New Westminster Land Title Office under number BT114184 or which will be registered concurrently with this Agreement (the "Subsequent Charge");

NOW THEREFORE in consideration of the sum of One (\$1.00) Dollar now paid by the Subsequent Chargee to the Prior Chargee, the receipt and sufficiency of which are hereby acknowledged, the Prior Chargee does hereby grant to the Subsequent Chargee priority over the Prior Charge and the Prior Chargee hereby covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interest of the Subsequent Chargee shall rank ahead of the Prior Charge as though the Subsequent Charge had been executed, delivered and registered in time prior to the registration of the Prior Charge.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee hereto has executed the Land Title Office Form C which is attached hereto and forms part of this Agreement.

END OF DOCUMENT