

CITY OF SURREY

BYLAW NO. 18441

A bylaw to enter into a development works agreement to authorize the acquisition of appliances, equipment, materials, real property, easements and rights-of-way required to construct works as identified in the development works agreement to service properties within the Orchard Grove Neighbourhood Concept Plan and a portion of the Grandview Heights General Land Use Plan; to define the benefiting real property and to establish that the cost of the works shall be borne by the owners of real property within such defined area.

.....

WHEREAS Council may by bylaw pursuant to Section 937.1 of the *Local Government Act*, R.S.B.C. 1996, c. 323, as amended (the "*Local Government Act*") enter into a development works agreement to provide, construct, alter, or expand works by the City or by the developer and the cost of constructing the works shall be recovered in part or in whole from the owners of real property in the area subject to the agreement;

AND WHEREAS Council has been petitioned to construct works to serve the Orchard Grove Neighbourhood Concept Plan and a portion of the Grandview Heights General Land Use Plan pursuant to Section 937.1(4)(c) of the *Local Government Act*;

AND WHEREAS the City Clerk has certified that the petition is sufficient;

AND WHEREAS it is deemed expedient to grant the prayers of the petitioners in the manner hereinafter provided and proceed with the construction of the works.

NOW THEREFORE, the Council of the City of Surrey, ENACTS AS FOLLOWS:

1. This Bylaw shall be cited for all purposes as "Development Works Agreement – Orchard Grove Neighbourhood Concept Plan and a Portion of the Grandview Heights General Land Use Plan Bylaw, 2015, No. 18441".

2. The City Council is hereby authorized to enter into that certain development works agreement attached hereto as Schedule 1 to this Bylaw (the "Development Works Agreement").
3. The Mayor and the City Clerk are authorized on behalf of the Council to sign and seal the Development Works Agreement.
5. The Specified Charge, as defined in the Development Works Agreement, payable by the Owners shall increase each year by 5% as specified on Schedule "C" of the Development Works Agreement.

PASSED FIRST READING on the 14th day of December, 2015.

PASSED SECOND READING on the 14th day of December, 2015.

PASSED THIRD READING on the 14th day of December, 2015.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 11th day of January, 2016.



MAYOR



CLERK



CITY OF SURREY
DEVELOPMENT WORKS AGREEMENT #1
 Project 8613-0071-00-1 (Drainage)

THIS AGREEMENT dated for reference the _____ day of _____, 2015.

BETWEEN:

CITY OF SURREY, at 13450 – 104th Avenue,
 City of Surrey, Province of British Columbia, V3T 1V8

(the "City")

OF THE FIRST PART

AND:

QUALICO DEVELOPMENTS (VCR) INC. of #310 – 5620 152 Street,
 City of Surrey, British Columbia V3S 3K2

(the "Developer")

OF THE SECOND PART

- A. **WHEREAS** the real property within Grandview Height Area 5A - Orchard Grove Neighbourhood Concept Plan and portions of the Grandview Heights General Land Use Plan the is identified in column one entitled "Legal Description" in Schedule "A" and are illustrated in "Benefiting Area Map" in Schedule "C";
- B. **AND WHEREAS** the registered owners in fee simple of the Benefiting Area are identified in column two entitled "Registered Owners" (as hereinafter defined);
- C. **AND WHEREAS** the Works (as hereinafter defined) has been constructed;
- D. **AND WHEREAS** the Developer shall undertake the performance of its obligations required to be made pursuant to this Agreement;
- E. **AND WHEREAS** the Works are contained within the City's 10 Year Engineering Servicing Plan;
- F. **AND WHEREAS** the Developer has requested that the City advance the acquisition and construction of the Works and has agreed to facilitate such acquisition and construction for the development of the Benefiting Area (as hereinafter defined);
- G. **AND WHEREAS** Section 937.1 of the *Local Government Act*, R.S.B.C. 1996, c. 323 and amendments thereto (the "*Act*") authorized Council to enter into an agreement with a Developer for the provision of the Works by the Developer; and
- H. **AND WHEREAS** Council introduced the "Development Works Agreement (Drainage) – Orchard Grove Neighbourhood Concept Plan and portions of the Grandview Heights Neighbourhood Concept Plan, By-law, 2015, No.18441 (the "Development Works Bylaw"), authorizing the parties to enter into this Agreement pursuant to Section 937.1 of the *Act*, providing for the provision of the Works by the Developer.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of TEN (\$10.00) DOLLARS of lawful money of Canada and other good and valuable consideration now paid by each of the parties hereto, to each of the other parties hereto, the receipt whereof is hereby acknowledged, the parties hereto hereby covenant, promise and agree with each other as follows:

1. **DEFINITIONS**

In this Agreement and in the recital above:

"Act" means the *Local Government Act*, R.S.B.C. 1996, c. 323, as revised, re-enacted or consolidated from time to time and any successor statute.

"Agreement" means this Agreement and all Schedules attached hereto.

"Benefiting Area" means the real property described in column two entitled "Legal Description" in Schedule "A."

"Capital Cost" means actual costs incurred by the Developer to construct the Works which costs are shown in Section 2.2 of this Agreement;

"City" means the City of Surrey;

"Completion Date" means Oct 07, 2014;

"Council" means the elected Council of the City.

"Developer" means Qualico Developments (Vcr) Inc.;

"Development Cost Charge" means a charge imposed pursuant to the Development Cost Charge By-law.

"Development Cost Charge By-law" means Surrey Development Cost Charge By-law, 2007, No. 16494, enacted by the City under the *Act* as such By-law is amended or replaced from time to time;

"Development Works By-Law" means the bylaw specified in Recital H;

"General Manager" means the General Manager, Engineering for the City;

"Maximum Amount Owing" means the maximum amount payable by the City to the Developer pursuant to this agreement as specified in Section 2.3;

"Owners" means each of the registered owners in fee simple of the Benefiting Area as identified in column two entitled "Registered Owner" in Schedule "A" attached hereto;

"Specified Charge" means a debt payable to the City in the maximum amount of Fifty Five Thousand, Nine Hundred, Eleven, decimal Eighteen (\$55,911.18) Canadian Dollars for each hectare of land or portion thereof to be developed as approved by the City, in accordance with the by-laws of the City, including, but not limited to the Development Works Bylaw.

"Subdivision and Development By-law" means Surrey Subdivision and Development By-law, 1986, No. 8830, enacted by the City under the *Act* as such By-law is amended or replaced from time to time.

"Term" means the period of time this Agreement is in effect as specified in Section 4.1.

"Works" means storm drainage and related appurtenances as described in Schedule "B."

2. WORKS

- .1 The Developer shall be solely responsible for the design, engineering and construction of the Works and for retaining consultants and entering into any contracts required to construct the Works, subject to the direction of the City.
- .2 The parties acknowledge that, as of the date of this Agreement, the Capital Cost is Five Million, One Hundred and Two Thousand, Nine Hundred and Ninety One (\$5,102,991.00) Canadian Dollars including applicable taxes.
- .3 The Maximum Amount Owing within the Development Works Agreement #1 is calculated by multiplying the Specified Charge by the Benefiting Area. For clarity

this means the Maximum Amount Owing to the Developer, pursuant to this Agreement will be by multiplying the Specified Charge of Fifty Five Thousand, Nine Hundred, Eleven, decimal Eighteen (\$55,911.18) Canadian Dollars including applicable taxes by the Benefiting Area of Thirty Six decimal Nineteen Hectares (36.19) which equals the Maximum Amount payable of Two Million, Twenty Three Thousand, Four Hundred Twenty Five, decimal Sixty (\$2,023,425.60) Canadian Dollars including applicable taxes.

- .4 The Developer agrees to facilitate the design, engineering and construction of the Works through the provision of funds as set out in this Agreement.

3. PAYMENT FOR WORKS

- .1 Each of the Owners shall pay the Specified Charge to the City on or before the date when the Development Cost Charges pursuant to the Development Cost Charge By-law are payable.
- .2 For greater certainty, all the land will be included in the Specified Charge calculation unless the General Manager, Engineering agrees in writing that a portion the land is not able to be developed due to agricultural land designation, topographic reasons or environmental sensitivity.
- .3 The Specified Charge shall be pro-rated for any portion of land not equal to one (1.0) hectare.
- .4 Until the Specified Charge is paid, Council, an Approving Officer, a building inspector or other municipal authority is not obligated to:
 - (i) approve a subdivision plan, strata plan, building permit, development permit, development variance permit or zoning by-law necessary for the development of real property of the Owners within the Benefiting Area; or
 - (ii) do any other thing necessary for the development of real property of the Owners in the Benefiting Area.
- .5 The City is not responsible for financing any of the costs of the Works.
- .6 In consideration of the completion of the Works by the Developer, to the satisfaction of the General Manager, without incurring any cost to the City, the City agrees to collect from the Owners within the Benefiting Area who have not heretofore contributed to the cost of construction thereof, the Specified Charge. The Specified Charge shall be escalated at an interest rate of 5% per annum and shall be conclusive against the Owners of the Benefiting Area.
- .7 The City shall remit the amounts actually received twice each calendar year to the Developer and the City shall have no further obligation to the Developer to make any payment pursuant to this Agreement for the sums collected from the Owners of the Benefiting Area at the address of the Developer as set forth hereinbefore or at such other address as the Developer shall provide by registered mail. If the said payments are returned to the City unclaimed by the Developer and if the City is unable to locate the Developer after all reasonable efforts, then the City shall hold all monies collected until the expiry of this Agreement. After the expiry of this Agreement, all such unclaimed funds shall be retained forever by the City.
- .8 In the event of the assignment or transfer of the rights of the Developer voluntarily, or by operation of law, the City Treasurer shall pay any benefits accruing hereunder, after notice, to such successor of the Developer as the City Treasurer, in his judgment deems entitled to such benefits; and in the event of conflicting demands being made upon the City for benefits accruing under this Agreement, then the City may at its option commence an action in interpleader joining any party claiming rights under this Agreement, or other parties which the City believes to be necessary or proper, and the City shall be discharged from further liability upon paying the person or persons whom any court having

jurisdiction of such interpleader action shall determine, and in such action the City shall be entitled to recover its reasonable legal fees and costs, which fees and costs shall constitute a lien upon all funds accrued or accruing pursuant to this Agreement.

4. TERM

- .1 The term of this Agreement shall commence on the Completion Date and shall expire on October 6, 2029 (the "Term").
- .2 The Developer agrees that if insufficient funds are paid by the Owners of the Benefiting Area within the Term of this Agreement, that it is at its risk and at the expiry of the Term no further monies are payable to the Developer pursuant to this Agreement.
- .3 This Agreement shall terminate prior to the expiry of the Term in the event the Developer has been paid the Maximum Amount Owing and interest (if any) as specified herein.

5. INDEMNITY

In consideration of Ten (\$10.00) Dollars and other good and valuable consideration paid by the City to the Developer (the receipt and sufficiency of which is hereby acknowledged), the Developer jointly and severally agrees to indemnify and save harmless the City, its employees, elected officials, contractors and agents against all actions, causes of action, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of the City and the Developer entering into this Agreement, and including without limitation the Developer agrees that if insufficient funds are paid by the Owners within the Term of this Agreement, that it is at its risk and at the expiry of the Term no further monies are payable to the Developer pursuant to this Agreement. This indemnity shall survive the expiry of the Term of this Agreement.

6. CITY'S COSTS

The Developer shall pay to the City, by cash or bank draft, prior to the City executing this Agreement, a fee equivalent to \$5,365.50 for the preparation and administration of this Agreement. The City acknowledges the receipt of payment by Receipt No. 536935 paid to the City on July 25, 2013 for the preparation and administration of this Agreement.

7. NOTICES

- .1 Any notice, demand, acceptance or request required to be given hereunder in writing shall be deemed to be given if either personally delivered or mailed by registered mail, postage prepaid (at any time other than during a general discontinuance of postal services due to a strike, lockout or otherwise) and addressed to the Developer as follows:

QUALICO DEVELOPMENTS (VCR) INC.
#310 – 5620 152 Street,
Surrey, British Columbia V3S 3K2

of such change of address as the Developer has, by written notification, forwarded to the City as follows:

CITY OF SURREY
Engineering Department
13450 – 104 Avenue
Surrey, B.C. V3T 1V8

Attention: General Manager, Engineering

c.c. City Solicitor

or such change of address as the City has, by written notification, forwarded to the Developer.

- .2 Any notice shall be deemed to have been given to and received by the party to which it is addressed:
 - (i) if delivered, on the date of delivery; or
 - (ii) if mailed, then on the fifth (5th) day after the mailing thereof.

8. **ASSIGNMENT**

The Developer shall not assign or transfer its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld.

9. **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof. It is hereby agreed between the parties hereto that this Agreement shall be enforceable by and against the parties, and their successors and assigns.

10. **LAWS OF BRITISH COLUMBIA**

This Agreement shall be interpreted under and is governed by the applicable laws of Canada and the Province of British Columbia.

11. **SCHEDULES**

The Schedules attached hereto, which form part of this Agreement, are as follows:

- (a) Schedule "A" - Owners and Benefiting Area
- (b) Schedule "B" - Storm Drainage Works
- (c) Schedule "C" - Benefiting Area Map

12. **CONFLICT**

In the event of any conflict or inconsistency between Schedules "A" and "C", Schedule "A" shall supersede Schedule "C".

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written.

CITY OF SURREY

by its authorized signatories

Mayor

City Clerk

QUALICO DEVELOPMENTS (VCR) INC.

by its authorized signatories



The City of Surrey
 Schedule "A"
 Legal Description and Registered Owner

Project File: 7813-0071-00
 DWA File: 8613-0071-00-1

Legal Description	Registered Owners	Civic Address	Area (ha)	Tax Roll Number
LT A SE SEC 24 T1 PL 21092 (PL 32269)	[REDACTED]	2575 168 St	.18	5241900020 5241900020
LT 1 N1/2 W1/2 LS 2 SEC 24 T1 PL 14965	0771355 Bc Ltd	2552 164 St	.78	524900006X
LT 1 S1/2 LS 7 SEC 24 T1 PL 11964	[REDACTED]	2652 164 St	.72	5249000101
LT 1 SC 24 T1 PLLMP13901	[REDACTED]	16530 26 Ave	.98	5249000150 5249000150
LT 1 SC 24 T1 PLLMP13007	[REDACTED]	16588 26 Ave	.99	5249000162 5249000162
LT 2 E1/2 LS 1 SEC 24 T1 PL 17817	[REDACTED]	16747 24 Ave	.24	5249010027
LT 2 W1/2 S1/2 W1/2 LS 2 SEC 24 T1	Qualico Developments (Vancouver) Inc	2460 164 St	.51	5249010064
LT 2 N1/2 W1/2 LS 2 SEC 24 T1 PL 14965	[REDACTED]	2532 164 St	.78	5249010088 5249010088 5249010088 5249010088
LT 2 S1/2 LS 7 SE SEC 24 T1 PL 11964 ([REDACTED]	2672 164 St	.47	5249010143 5249010143
LT 2 SC 24 T1 PLLMP13901	[REDACTED]	16539 24 Ave	.96	5249010179 5249010179
LT 2 SC 24 T1 PLLMP13007	[REDACTED]	16595 24 Ave	.98	5249010192 5249010192
LT 3 E1/2 S1/2 LS 1 SEC 24 T1 PL 17817	[REDACTED]	16737 24 Ave	.24	5249020021

The City of Surrey
 Schedule "A"
 Legal Description and Registered Owner

Project File: 7813-0071-00
 DWA File: 8613-0071-00-1

Legal Description	Registered Owners	Civic Address	Area (ha)	Tax Roll Number
				5249020021 5249020021 5249020021
LT 3 W1/2 S1/2 W1/2 LS 2 SEC 24 T1	Qualico Developments (Vancouver) Inc	2490 164 St	.37	5249020069
LT 3 N1/2 W1/2 LS 2 SEC 24 T1 PL 14965	Qualico Developments (Vancouver) Inc	2516 164 St	.07	5249020082
LT 3 S1/2 LS 7 SE SEC 24 T1 PL 11964 (2696 164 St	.41	5249020124 5249020124
LT 4 E1/2 S1/2 LS 1 SEC 24 T1 PL 17817		16725 24 Ave	.24	5249030026
LT 4 W1/2 LS 2 SEC 24 T1 PL 14965	Qualico Developments (Vancouver) Inc	2504 164 St	.74	5249030063
LT 5 E1/2 S1/2 LS 1 SEC 24 T1 PL 17817		16715 24 Ave	.24	5249040020 5249040020
LT 7 LS 1 SEC 24 T1 PL 21092		2566 167A St	.08	524906002X 524906002X
LT 8 LS 1 SEC 24 T1 PL 21092		2558 167A St	.08	5249070024 5249070024
LT 9 LS 1 SEC 24 T1 PL 21092		16739 25A Ave	.07	5249080029 5249080029
LT 10 LS 1 SEC 24 T1 PL 21092		16729 25A Ave	.07	5249090023
LT 10 SC 24 T1 PLLMP4187		16581 26 Ave	.4	5249090060 5249090060
LT 11 LS 1 SEC 24 T1 PL 21092		16721 25A Ave	.07	5249100028

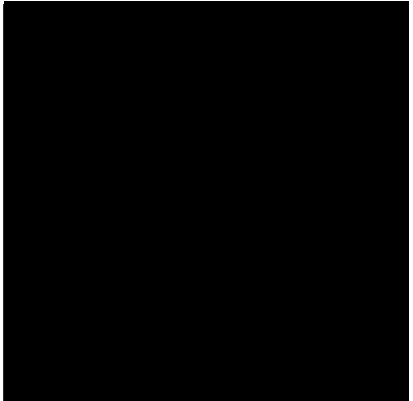
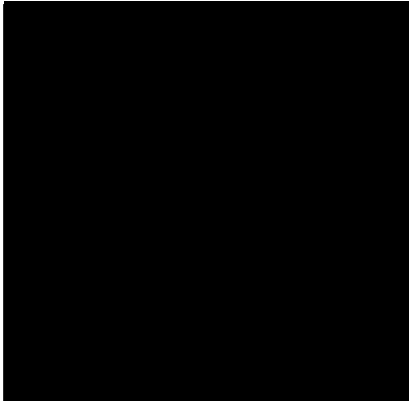
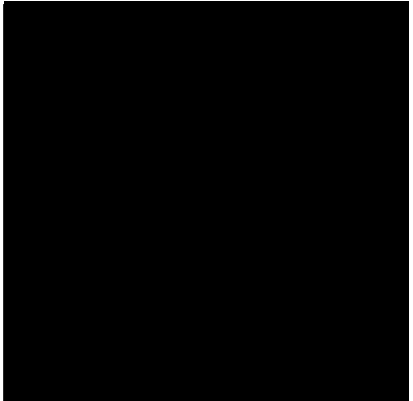
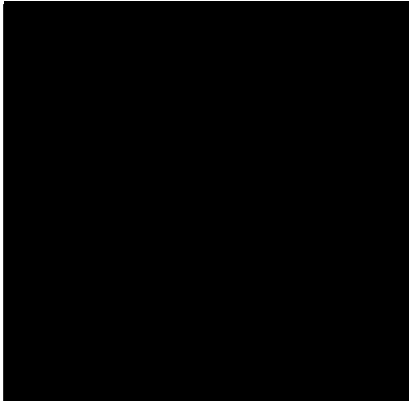
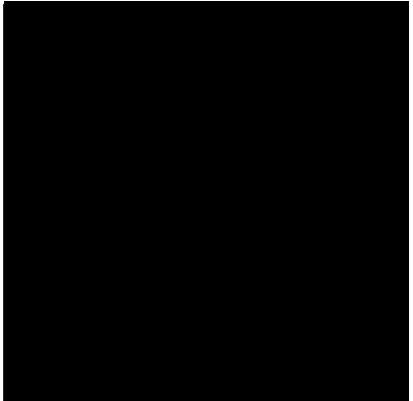
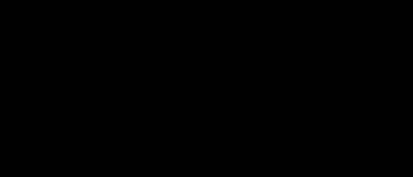
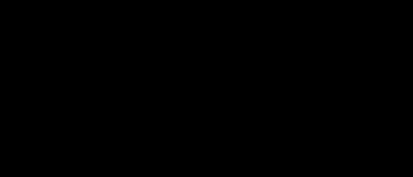
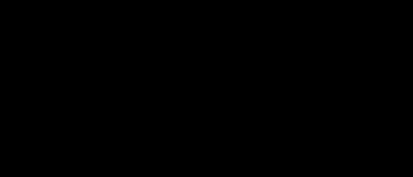
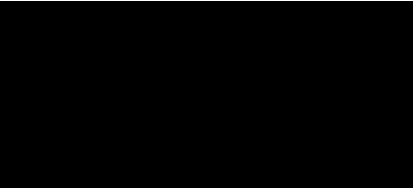
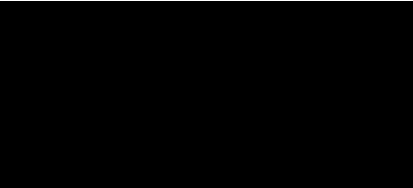
The City of Surrey
 Schedule "A"
 Legal Description and Registered Owner

Project File: 7813-0071-00
 DWA File: 8613-0071-00-1

Legal Description	Registered Owners	Civic Address	Area (ha)	Tax Roll Number
				5249100028
LT 11 SC 24 T1 PLLMP4187		16559 26 Ave	.4	5249100065 5249100065
LT 12 LS 1 SEC 24 T1 PL 21092		16740 26 Ave	.07	5249110022
LT 12 SC 24 T1 PLLMP4187		16533 26 Ave	.41	524911006X 524911006X
LT 13 LS 1 SEC 24 T1 PL 21092		16730 26 Ave	.07	5249120027 5249120027
LT 13 SC 24 T1 PLLMP4187		16505 26 Ave	.45	5249120052 5249120052
LT 14 LS 1 SEC 24 T1 PL 21092		16720 26 Ave	.07	5249130021
LT 14 SC 24 T1 PLLMP4187		16493 26 Ave	.45	5249130057 5249130057
LT 15 SC 24 T1 PLLMP4187		16465 26 Ave	.45	5249140051
LT 16 SC 24 T1 PLLMP4187		16441 26 Ave	.45	5249150093
LT 17 LS 1 SEC 24 T1 PL 28377	Qualico Developments (Vancouver) Inc	16650 25A Ave	2.08	5249160025
LT 17 SC 24 T1 PLLMP4187		16425 26 Ave	.45	5249160074
LT 19 LS 1 SEC 24 T1 PL 32278		16706 26 Ave	.42	5249180024 5249180024 5249180024 5249180024

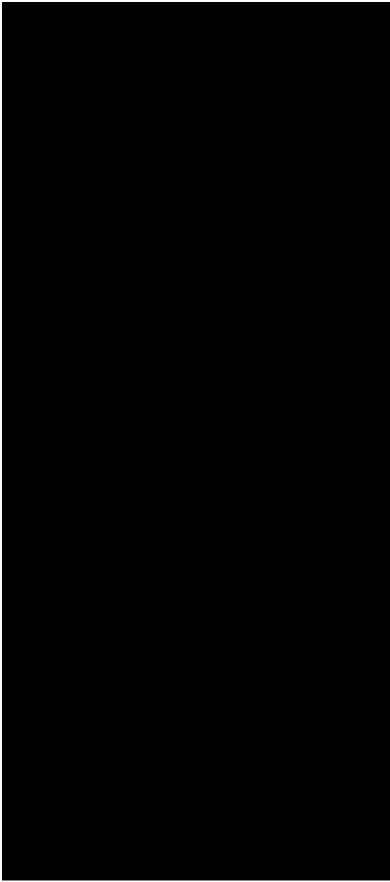
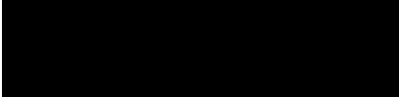
The City of Surrey
 Schedule "A"
 Legal Description and Registered Owner

Project File: 7813-0071-00
 DWA File: 8613-0071-00-1

Legal Description	Registered Owners	Civic Address	Area (ha)	Tax Roll Number
LT 20 LS 1 SEC 24 T1 PL 32278	0961921 Bc Ltd	2584 166 St	.42	5249190029
LT 22 LS 1 SEC 24 T1 PL 32278		16709 25A Ave	.42	5249210028 5249210028
LT 23 LS 1 SEC 24 T1 PL 41720		16613 24 Ave	.97	5249220022 5249220022
LT 24 LS 1 SEC 24 T1 PL 41720		16637 24 Ave	.97	5249230027
LT 25 LS 1 SEC 24 T1 PL 41720		16667 24 Ave	.97	5249240021 5249240021
LT 26 LS 1 SEC 24 T1 PL 41720		16685 24 Ave	.97	5249250026
LT 27 LS 2 SEC 24 T1 PL 42765	Qualico Developments (Vancouver) Inc	16465 24 Ave	.96	5249260020
LT 28 LS 2 SEC 24 T1 PL 42765	Qualico Developments (Vancouver) Inc	16487 24 Ave	1	5249270025
LT 29 LS 1 SEC 24 T1 PL 46232		2501 168 St	.42	524928002X
LT 30 LS 1 SEC 24 T1 PL 46232		2535 168 St	.42	5249290024
LT 31 LS 1 SEC 24 T1 PL 46232		16736 25A Ave	.47	5249300029
LT 32 LS 1 SEC 24 T1 PL 46232	Suncor Orchard Grove Properties Ltd	16710 25A Ave	.53	5249310023
LT 34 SEC 24 T1 PL 47914		2485 168 St	.41	5249330022 5249330022
LT 35 SEC 24 T1 PL 47914 (EX PL 521		2461 168 St	.2	5249340040 5249340040

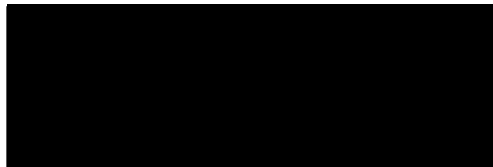
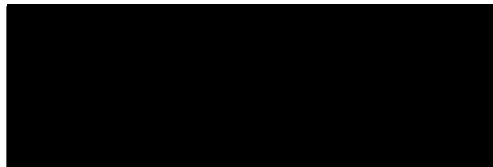
The City of Surrey
 Schedule "A"
 Legal Description and Registered Owner

Project File: 7813-0071-00
 DWA File: 8613-0071-00-1

Legal Description	Registered Owners	Civic Address	Area (ha)	Tax Roll Number	
LT 36 SEC 24 T1 PL 52132		2462 167 St	4	5249350021 5249350021	
LT 37 SEC 24 T1 PL 52132		2474 167 St	.58	5249360026 5249360026	
LT 40 BK LS1 SC 24 T1 PL60252		16605 25A Ave	.2	524939002X 524939002X	
LT 41 BK LS1 SC 24 T1 PL60252		16655 25A Ave	.21	5249400024 5249400024	
LOT 42 SE SEC 24 T1 PL65318		2419 168 St	.37	5249410029 5249410029	
LOT 43 SE SEC 24 T1 65318		2429 168 St	.41	5249420023 5249420023	
LT A 1 W1/2 S1/2 W1/2 LS 2 SEC 24 T1		2440 164 St	.08	5249900045	
PCL A 2&3 S1/2 LS 7 SEC 24 T1 EXP 12591		2684 164 St	.35	5249900100 5249900100	
LT B 1 W1/2 S1/2 W1/2 LS 2 SEC 24 T1		16413 24 Ave	.31	5249910026	
LT B (#32988) SE SEC 24 T1 PL 21092		16768 26 Ave	.17	5249910063 5249910063	
LT C 1 W1/2 S1/2 W1/2 LS 2 SEC 24 T1		Qualico Developments (Vancouver) Inc	16435 24 Ave	.49	5249920020
LT C (33501) LS 1 SEC 24 T1 PL 21092			2555 168 St	.18	5249920044 5249920044

The City of Surrey
 Schedule "A"
 Legal Description and Registered Owner

Project File: 7813-0071-00
 DWA File: 8613-0071-00-1

Legal Description	Registered Owners	Civic Address	Area (ha)	Tax Roll Number
W1/2 E1/2 E1/2 LS 2 SEC 24 T1	0774909 Bc Ltd	16555 24 Ave	2.01	5249971088
W1/2 W1/2 E1/2 LS 2 SEC 24 T1	Qualico Developments (Vancouver) Inc	16517 24 Ave	2	524997112X
N264' N1/2 W1/2 LS 2 SEC 24 T1(EX 33')	0782717 Bc Ltd	2580 164 St	1.55	5249971167
SC 24 T1 Part N 1/2 of S 1/2 of N 1/2, L		2738 164 St	.65	5249971921 5249971921
SC 24 T1 Part S 1/2 of S 1/2 of N 1/2, L		2716 164 St	.66	5249971945 5249971945

SCHEDULE "B"

DESCRIPTION OF STORM DRAINAGE WORKS

Means and includes anything and everything required for the design, engineering and construction of Storm Sewer on 164 Street between 24 Avenue and 32 Avenue and a Community Detention Pond located on the east portion of 3142-164Street, 16434-32 Avenue and 16466- 32 Avenue.

Schedule C Development Works Agreement #1

