SCHEDULE “GG”: MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING

REGARDING

FAIRWINDS LAKES DISTRICT AND SCHOONER COVE IMPLEMENTATION MATTERS

THIS MEMORANDUM OF UNDERSTANDING is entered into this 23rd day of July, 2014.
BETWEEN:

BCIMC REALTY CORPORATION
("BCIMC")

AND:

3536696 CANADA INC.
("3536696")

(BCIMC and 3536696 are collectively the "**Owner**")

AND:

REGIONAL DISTRICT OF NANAIMO

(the "**Regional District**")

(collectively, referred to as the "**Parties**")

WHEREAS:

A. This Memorandum of Understanding describes presently anticipated future steps and processes regarding various matters that could be expected to arise in the event of the adoption by the Regional District of:

(a) three amending bylaws to the Regional District's Land Use and Subdivision Bylaw, and

(b) a Phased Development Agreement authorization bylaw,

that have been applied for by the **Owner** in connection with the **Owner's** Fairwinds Project, as outlined in the Recitals to the proposed Phased Development Agreement ("**PDA**");

Qualifications

B. By entering into this Memorandum of Understanding, the parties are not making, and do not intend to imply, any form of commitment regarding the future steps and processes spoken to, but rather are simply seeking to distill and summarize their present thinking in light of existing **Regional District** policy, and the extensive technical work and analysis performed to date;

C. The **Regional District** and the **Owner** acknowledge and agree that:

(a) a public hearing process is a prerequisite to Regional Board adoption of the amending bylaws and of the PDA authorization bylaw, and those bylaws accordingly may or may not be adopted by the Regional Board, and, even if adopted, may or may not be altered prior to adoption;

(b) some of the other matters referred to in this Memorandum of Understanding are subject to decisions by the Regional Board (such as services to be provided, service areas, local service taxes, development cost charges), and are also subject to various forms of public process, and hence the decisions the Regional Board may make regarding those matters cannot be anticipated;

(c) others of the matters referred to are subject to the jurisdiction of third parties (such as the Approving Officer, the Ministry of Transportation and Infrastructure, the Ministry of Environment, or the Ministry of Community, Sport and Cultural Development), which may also be exercised in a variety of ways, that at present cannot be anticipated; and

(d) this Memorandum of Understanding accordingly does not, and is not intended to, in any way limit the discretion of the Regional Board regarding such matters.

(collectively, the "**Qualifications**")

Context

D. At the same time, the **Regional District** and the **Owner** consider that this Memorandum of Understanding is useful given that:

(a) the **Regional District** has adopted a number of Bylaws following substantial public processes and that set Regional District policy related to the Fairwinds Project, which Bylaws include:

(i) the Regional District of Nanaimo's Regional Growth Strategy Bylaw ("**RGS**");

(ii) the Nanoose Bay Official Community Plan Bylaw ("**OCP**"); and

(iii) the Lakes District Neighbourhood Plan Bylaw; and

(iv) the Schooner Cove Neighbourhood Plan Bylaw;

(b) the policies contained within those Bylaws are important to advancing many of the **Regional District's** sustainability goals;

(c) the Neighbourhood Plans contemplate zoning amendment bylaws and a **PDA** for the Fairwinds Project, and various of the other matters referred to in this Memorandum of

Understanding as well as the provision by the Owner of substantial park land, park improvements, and other amenities;

(d) the presently anticipated future steps and processes set out in this Memorandum of Understanding reflect the kinds of possible future steps and processes that one would in the normal course anticipate in order to advance the implementation of **RGS, OCP** and Neighbourhood Plans, and the **Regional District's** sustainability goals, in the context of the Fairwinds property that is the subject of the Owner's applications;

(e) in order for the Fairwinds Project to successfully proceed, a number of practical considerations must be accounted for, including:

(i) constraints on immediately available water supply;

(ii) constraints on sewage treatment capacity;

(iii) the fact the **Regional District** does not presently provide a storm drainage service and stormwater systems within road rights-of-way fall within the jurisdiction of the MoTI;

(iv) the fact the proposed road system is within the jurisdiction of the Ministry of Transportation and Infrastructure;

(v) the fact the Approving Officer with jurisdiction over subdivision is not a **Regional District** official, but rather a Provincial official; and

(vi) the substantial investment the **Owner** would need to make at an early stage to address transportation and other infrastructure requirements, if the Fairwinds Project is to proceed;

(f) the **Owner** and **Regional District** and their staff and consultants have undertaken substantial analysis from a planning, engineering and environmental perspective in determining how the **RGS**, **OCP**, Neighbourhood Plans, and other **Regional District** policies applicable to the Fairwinds Project, can best be advanced;

(g) the **Owner** has entered into this Memorandum of Understanding because it wishes to ensure that appropriate forethought has been given to possible future steps and processes, in light of the practical considerations noted above and the substantial level of investment that it would need to make during the early stages of development, in the event the Fairwinds Project proceeds, **while wholly acknowledging and accepting the Qualifications**; and

(h) the **Regional District** has entered into this Memorandum of Understanding because it wishes to provide the **Owner** and the public with a degree of clarity regarding presently

anticipated future steps and processes, and also wishes to ensure that appropriate forethought has been given to possible future steps and processes, and the broader implications the Fairwinds Project would entail, **again all subject to the Qualifications**.

(collectively, the "**Context**").

NOW THEREFORE, THE **PARTIES** AGREE AS FOLLOWS:

A. Effect of this Memorandum of Understanding

1. The **Parties** agree that this Memorandum of Understanding, and each of the terms set out hereinafter:

   (a) are nothing more than a record of presently anticipated future steps and processes, including, in some instances, indications of the policy directions that **Regional District** staff and the **Owner** are recommending based on existing Regional District policies and the planning, engineering, environmental and other technical and related analysis that has taken place; and

   (b) **are in each and every instance subject to the Qualifications, and are not in any way legally binding on either of the Parties**.

B. Overview, Definitions and Schedules

B.1 Overview

2. This Memorandum of Understanding deals with the following topics:

   (a) integrated stormwater management (Part C);

   (b) transportation (part D);

   (c) water supply (Part E);

   (d) sanitary sewage (Part F); and

   (e) parks (Part G).

B.2 Definitions

3. The provisions hereof utilize the terms defined below:

   (a) **Approving Officer:** the Provincial Approving Officer;

(b) **DCC**: development cost charge;

(c) **ERWS**: Phase 1 of the Englishman River Water System, being a proposed new intake and filtration on/adjacent to Englishman River, as well as associated storage infrastructure (planned as aquifer storage and recovery) to supply water to Parksville and the Regional District, including Electoral Area E. A fundamental component of the ERWS is the present Arrowsmith Water Service, which consists of the existing Arrowsmith Lake dam, licensed storage capacity in Arrowsmith Lake, and Englishman River intake;

(d) **Fairwinds Project:** the development of the Owner's lands in keeping with the Neighbourhood Plans, and does not include completed homes or other developable land within the existing Fairwinds neighbourhood;

(e) **Infrastructure Phasing Plans:** the Infrastructure Phasing Plans that are included as schedules to the **PDA**;

(f) **Integrated Stormwater Management Plan** or **ISMP:** as defined in the PDA;

(g) **KWL**: Kerr Wood Leidal, Professional Engineers;

(h) **Lakes District**: the Lakes District land that is the subject of the Lakes District Neighbourhood Plan (Regional District Bylaw 1400.05), as defined in the **PDA**;

(i) **MoCSCD**: BC Ministry of Community, Sport and Cultural Development;

(j) **MoE:** BC Ministry of Environment;

(k) **MoTI**: BC Ministry of Transportation & Infrastructure;

(l) **MoTI Preliminary Commentary**: the preliminary commentary provided by the **MoTI** to the **Owner** under heading D hereof, as outlined in April 30 and July 10 2013 letters, which commentary was provided in the context of the:

(i) '**Schooner Cove Parkway Design Package'**;

(ii) '**Project-Specific Street Standards**';

(iii) **Fairwinds Lakes District Project Specific Design Sheets** dated October ♦, 2013; and

(iv) **ISMP**

referenced in the **Schedules**;

(m) **NBPWS**: Nanoose Bay Peninsula Water System, operated by the Regional District;

(n) **NBPCC**: Nanoose Bay Pollution Control Centre, being the sewage treatment plant, operated by the **Regional District**;

(o) **Neighbourhood Plan**: either the Schooner Cove Neighbourhood Plan or the Lakes District Neighbourhood Plan, both of which form part of the Nanoose Bay Official Community Plan;

(p) **1997 Development Agreement**: an agreement entered into between the **Regional District** and Fairwinds Development Corporation dated January 27, 1997;

(q) **Owner**: 3536696 Canada Inc., bcIMC Realty Corporation or affiliate companies;

(r) **Owner's Land**: the Lakes District land and the Schooner Cove land;

(s) **PLA**: Preliminary Layout Approval by the Approving Officer;

(t) **Regional District:** Regional District of Nanaimo, being the local government of Nanoose Bay Electoral Area E;

(u) **RVC**: The Fairwinds Rural Village Centre area, formerly the Fairwinds & Schooner Cove Urban Containment Boundary areas (collectively), per the **RGS**, which comprises the areas covered by the Lakes District, Schooner Cove and existing Fairwinds neighbourhoods;

(v) **SA**: Service Area;

(w) **Schooner Cove**: the Schooner Cove land that is the subject of the Schooner Cove Neighbourhood Plan (Regional District Bylaw 1400.04), as defined in the **PDA**;

(x) **Subdivision Servicing Standards**: the area specific subdivision servicing provisions related to the **Fairwinds Project**, such as are contained within an amendment bylaw applied for by the **Owner** that is presently in process;

(y) **TIS:** Transportation Impact Study, included as a technical appendix to the Neighbourhood Plans;

(z) **VIHA**: Vancouver Island Health Authority;

(aa) **Wallbrook**: The site located at 1610 & 1634 Northwest Bay Road, including 4 groundwater wells thereon (FCR 2-07 (Well tag No. 16523), FCR 3-08 (Well tag No. 25682), FCR 4-08 (Well tag No. 25685) and (FCR 5-08 (Well tag No. 25683)) all currently owned by the **Owner**, but excluding the Wallbrook 1 (formerly Madrona 7) well which was previously dedicated to Regional District;

(bb) **Water DCC Bylaw**: a Development Cost Charge Bylaw for water as contemplated herein;

(cc) **Zoning Amendments**: the zoning amendment bylaws for the Lakes District and Schooner Cove that have been applied for by the **Owner** and that are presently in process.

B.3 Schedules

4. The provisions hereof also utilize the following schedules, which are appended hereto:

Schedule 1 **Integrated Stormwater Management Plan (ISMP)** - Lakes District and Schooner Cove – Refer to Schedule "DD" of the PDA

Schedule 2 **Schooner Cove Parkway Design Package**:

(a) Schooner Cove Drive Alignment Plan and Vertical Profiles
(b) Cedar Creek Bridge Crossing
(c) Schooner Cove Drive Cross Sections

Schedule 3 **Project-Specific Street Standards**

Schedule 4 **Lakes District and Schooner Cove Project Specific Design Sheets** (MoTI format) dated November 25, 2013

Schedule 5 **Density & Sewer Service Records** (for completed development within the Fairwinds **RVC**)

Schedule 6 **Servicing Standards** – Project-Specific Standards to:

(a) Community Sanitary Sewer System Standards (Schedule 4D1, to the bylaw amendment presently in process)
(b) Community Water System Standards (Schedule 4C1, to the bylaw amendment presently in process)
(c) Community Streetlighting System Standards (amended draft Regional District Bylaw 500 Schedule ♦)
(d) Template Agreements:
- Appendix 1 Subdivision and Servicing Agreement
- Appendix 2 Maintenance Agreement
- Appendix 3 Latecomer Agreement
- Appendix 4 Transfer Agreement
- Appendix 5 Fire Hydrant Use Permit
- Appendix 6 Fire Hydrant Certification Form
- Appendix 7 Approved Products List – Public Water Systems

Schedule 7 **Other Nanoose Water Works**: [table listing offsite infrastructure works set out in the draft **NBPWS** DCC Report by Koers & Associates dated May 14 2012, other than treatment of the **Claudet** wells]

Schedule 8 Analysis of **NBPWS** Water Supply Needs to Buildout by Koers & Associates dated July 3, 2013

Schedule 9 Wallbrook Groundwater Well Approval Process

C. INTEGRATED STORMWATER MANAGEMENT

5. The **Owner** and **Regional District** staff are generally supportive of the approach set out in paragraphs 6 through 8 hereof, as regards the following aspects of storm drainage:

(a) storm drainage works, and timing of construction (C.1); and

(b) the funding of operation and maintenance (C.2).

C.1 Integrated Stormwater Management Plan & Construction of Storm Drainage Works

NP references: LD 4.3.3(a), SC 4.3(a)

6. Storm drainage works are anticipated to include, inter alia, rainwater creeks (both natural and man made), regional raingardens and controlled storage, and regional wetlands.

C.2 Financing of Stormwater Operating costs and Other On-going Costs – SA.

NP references: LD 4.3.3(e)

7. The **Regional District** anticipates establishing a stormwater service in the **Lakes District** area, and providing a stormwater service.

8. The **Owner** (which owns more than the requisite 50% of the lands having more than 50% of the assessed value) and the Regional District anticipate establishing a **SA** to fund the operating costs and repair and replacement of the storm drainage system (including mains and ponds) on the lands comprising the **Owner's Land.** The Owner intends to petition the **Regional District** board to establish such on the following basis:

(a) charges to be based on a flat rate (equal amount per parcel) parcel tax (to reflect that the operational costs only arise when a phase proceeds, and only arise regarding the phases that have proceeded);

(b) the **SA** for the operating and maintenance costs of the stormwater regime may be combined with and form part of the same **SA** as that for transportation works referred to at paragraph 14 hereof; and

(c) to assist the **Regional District** in estimating such operating and maintenance costs, the **Owner** shall provide operation and maintenance (repair and replacement) cost estimates.

D. TRANSPORTATION

9. The **Owner** and **Regional District** staff are generally supportive of the approach set out in paragraphs 12 through 19 hereof, as regards the following aspects of transportation infrastructure:

   (a) road works and timing of construction (D.1);

   (b) funding of operation and maintenance (D.2);

   (c) **MoTI** policy (D.3); and

   (d) Parking (D.4).

10. The approach set out under headings D.1 to D.3 below reflect the **Context** and also the technical analysis undertaken by the **Owner** and reviewed by the **Regional District**, and previous submissions by the **Regional District** to the **MoTI** and **MoCSCD**.

11. The approach set out under headings D.1 to D.3 also reflects:

   (a) the **MoTI Preliminary Commentary**, provided with regard to:

      (i) the **SC Parkway Design Package**;

      (ii) the **Project-Specific Street Standards**;

      (iii) the **Lakes District and Schooner Cove Project Specific Design Sheets**; and

      (iv) the **ISMP**;

   (b) confirmation by the **MoTI** dated August 28, 2013 that it will accept, operate, repair and replace sidewalks within the portion of the area comprising the **Owner's Land** which are to be within the **MoTI** right of way; and

   (c) indications provided upon review by the **MoTI** and **Regional District** that the **Regional District** will manage, with the approval of MoTI, the following elements located within the **MoTI** right of way:

      (i) street trees, rain gardens/ponds & other landscaping within boulevards & islands;

      (ii) street lighting;

      (iii) signage (other than **MoTI** signage or **Owner's** signage); and

pipes/conduits located beneath the road carriageway (i.e. water, sanitary, and stormwater); and

(d) preliminary confirmation by the **Regional District** of the proposed funding of **Regional District** operating and management costs by way of **SA**(s).

D.1 Road Improvements & Construction

NP references: LD 4.1.1(a), SC 4.1.1(a)

(1) Schooner Cove Parkway

12. The **Parties** presently anticipate that the **Owner** will construct Schooner Cove Parkway on a phased basis as generally outlined in the **Schooner Cove Parkway Design Package** including:

(a) rough-in of the Schooner Cove Parkway road alignment, including Cedar Creek ravine crossing;

(b) establishment of a Statutory Right of Way in favor of **MoTI**, prior to (or contracted to be built upon) "Subdivision" as defined in the **PDA**, on the basis that the roughed-in road will only be used for construction traffic and that the road will be privately maintained; and

(c) completion of construction, and dedication for public use, as each Sub-Phase proceeds, as generally shown on the **Infrastructure Phasing Plans.**

(2) Onsite Improvements

13. The **Parties** presently anticipate that the **Owner** will construct all on site road improvements (including, but not limited to, the completion of Schooner Cove Parkway), and will construct and dedicate all collector roads, local roads, lanes and emergency roads on a phased basis as generally shown on the **Infrastructure Phasing Plans,** to the standards referenced in the **MoTI Preliminary Commentary**, and including the accompanying **ISMP** works.

D.2 Financing of Operating and Other On-going Costs for 'Behind the Curb' Elements within Road RoW

NP references: LD 4.1.1(h), SC 4.1.1(g)

14. The **Owner** (which owns more than the requisite 50% of the lands having more than 50% of the assessed value) and **Regional District**, anticipate establishing a **SA** (or agreeing to amend an existing **SA**) to fund the operating costs and repair and replacement of the street lighting, boulevard, street trees and landscaping in the area comprising the **Owner's Land.** The Owner intends to petition the Regional District board to establish such on the following basis:

(a) charges to be based on a flat rate (equal amount per parcel) parcel tax (to reflect that the operational cost only arises when a phase proceeds (and has only arisen regarding the phases that have proceeded); and

(b) the **SA** for the operation of such transportation elements may be combined with and form part of the same **SA** as that for storm drainage works referred to at paragraph 9 hereof.

15. In acknowledgement of the letter dated August 28, 2103 from Minister Stone confirming MoTI's commitment regarding sidewalks, the **SA** will not apply to the operation, repair and replacement of sidewalks within the portion of the area comprising the **Owner's Land** which is to be within the **MoTI** right of way, per the **MoTI** advice in the **MoTI Preliminary Commentary** that it will be responsible for same.

D.3 MoTI policy

16. The **Owner** and **Regional District** will seek to have the **MoTI** more formally adopt

(a) the **SC Parkway Design Package**;

(b) the **Project-Specific Street Standards**;

(c) the **Lakes District and Schooner Cove Project Specific Design Sheets**; and

(d) a program for storm water management in accordance with the goals, objectives and performance criteria of the **ISMP**;

as **MoTI** policy, as regards the **Owner's Land**, to enable the consideration of subdivision applications by the **Approving Officer** to occur in light of such policy. The **Regional District** will seek to enter into an implementation agreement pursuant to section. 868 of Part 25 of the *Local Government Act* with **MoTI** to support the formal application of 17 (a-c) by MoTI and the **Approving Officer**, when considering subdivision in the **Lakes District** and **Schooner Cove** as outlined in the **Neighbourhood Plans**.

(*NP references: LD 4.1.1(c), SC 4.1.1(c))*

17. The **Owner** and the **Regional District** will support the application of the following in submissions made to the **Approving Officer** as regards subdivision applications related to the **Owner's Land**:

(a) the **SC Parkway Design Package**;

(b) the **Project-Specific Street Standards**; and

(c) the **Lakes District and Schooner Cove Project Specific Design Sheets**;

18. The **Owner** will seek **MoTI** approval of the Fairwinds **RVC** area as a designated low speed vehicle (LSV) area. (*NP references: LD 4.1.1(m), SC 4.1.1(h))*

D.4 Parking Requirements – Potential Future Reductions.
NP references: LD 4.1.1(g), LD 4.2(a), SC 4.1.1(f)

19. The **Parties** presently anticipate that, to encourage the successful implementation of **Neighbourhood Plan** initiatives relating to alternative forms of transportation (including low speed vehicles, public transit, car-sharing cooperatives, etc.), the **Regional District** may consider reduced parking requirements (ratios and types of stalls) for future commercial developments where it can be demonstrated through a shared use parking study that there is 'surplus parking' in completed developments. In particular, for commercial uses:

(a) the extent of any 'surplus parking' will be determined by a parking usage survey of completed and occupied development projects within the **Neighbourhood Plan** areas, conducted by a qualified professional; and

(b) such surveys will be undertaken during peak periods of a typical week (50th percentile of annual usage), and will consider parking space occupancy, usage/turnover, accumulation patterns, and other characteristics.

Further, in the event that the Owner submits a development permit for Schooner Cove Phase 1 (the Village) having a commercial floor area of less than 2,325msq, the Regional District would reconsider CD45-MU off-street parking requirements for commercial uses on the basis of a revised shared-use parking study submitted by the Owner. *NP reference SC 4.2.(a)*

E. <u>WATER</u>

20. The **Owner** and **Regional District** staff are generally supportive of the approach set out in paragraphs 22 through 25 hereof as regards the following aspects of water infrastructure:

(a) water supply sources and offsite infrastructure (E.1); and

(b) review of criteria (E.2)

21. The approach has been arrived at in light of the **Context** and the following additional considerations, and others:

(a) the **NBPWS** will require, in order to service both existing residents and new development, source water additions from both the **ERWS** surface water (which is projected to be operational in 2016, but not before), and additional ground water from wells;

(b) the cost to the **NBPWS** of the **ERWS** Phase 1 is presently estimated to be $9.75 million, being **NBPWS**' 26% share of the total $37.5 million estimated cost for the **ERWS** (2011 $). The ERWS has presently secured senior government funding of $1.3 million, of which $338,000 (26%) is to be applied to offset the total **NBPWS** share of **ERWS** costs;

(c) the **Regional District** has preliminarily determined that the allocation of the capital costs of the **ERWS** between existing users and new development is to:

(i) reflect that additional source water (i.e. in addition to those sources currently online as of July 2013) is, to a significant extent, required to provide adequate supply to existing **NBPWS** water users;

(ii) have a time horizon for both capital expenditures and the projected population growth from new development, for the purposes of **DCC** calculations, of 20 years; and

(iii) be informed by the Professional engineering analysis of **NBPWS** water supply needs to buildout, undertaken by Koers and Associates dated July 3, 2013 (Schedule 8);

(d) the **Parties** acknowledge that preliminary costs identified are Class D estimates, and that the scope of work, legislation, and costs may change;

(e) the **Fairwinds Project** comprises roughly 87% of the proposed new development dwelling units in Nanoose Bay, nearly all of which is located within the **NBPWS**;

(f) **Regional District** policy B.1.21 provides that water supply is to be identified at the point of zoning; and

(g) the **Owner** is obligated, as a precondition to subdivision approval, to secure a water supply for the subdivision that meets the applicable water quantity and water quality standards.

E.1 Water Supply Sources & Offsite Infrastructure
NP references: LD 4.3.1(a), SC 4.3.2(a), LD 4.3.1(c), SC 4.3.2(c)

(1) ERWS

22. The **Regional District** has preliminarily indicated that in order to:

(a) facilitate **Regional District** achieving the objectives of its Regional Growth Strategy, and the implementation of the **Neighbourhood Plans**;

(b) better serve the residents of the Regional District and Electoral Area E; and

(c) encourage the up-front expenditures by the **Owner** that the Development requires,

it proposes to construct additional works for the **NBPWS** community water system.

(2) Development Cost Charges

23. The **Parties** intend to work towards a proposal to amend the **Regional District's** existing Bulk Water Development Cost Charge Bylaw (1998), related to the Arrowsmith Water Service portion of the **NBPWS,** and to merge that bylaw with a new **DCC** bylaw for the **NBPWS** area in accordance with the Provincial DCC Best Practices Guide, with consideration to the following points:

(a) there would be a single DCC bylaw for all water infrastructure within the NBPWS area;

(b) the bylaw would include the cost of the following capital works:

(i) **ERWS** Phase 1, as a source addition, with a capacity to provide water to at least 2,200 new single detached units (or other equivalent having equivalent water demand), at the standards provided for in **Community Water System Standards** sections 2.1.1 and 2.1.2;

(ii) the **Other Nanoose Water Works**; and

(iii) all of the **Wallbrook** ground water wells, as source additions, provided they meet the standards noted at subpoint (d) below;

(c) the allocation of at least 34% of the costs of the **ERWS**, and 82% of **Other Nanoose Water Works** would be to 'existing users', and not to 'new development' as recommended in the Koers report referenced at section 22(c)(iii);

(d) a **DCC** apportionment to 'new development' based on unit type, to reflect the relative number of persons per household for various land uses, as set out section 2.1.1 of the **Community Water System Standards**;

(e) upon the construction and dedication of each **Wallbrook** ground water well by the **Owner**, the **Owner** would be entitled, further to section 935(3)(d) of the *Local Government Act* to:

(i) cash reimbursement to the **Owner** from the **DCC** funds collected to the date of dedication, of

– the interest in land to be transferred to the **Regional District** in connection with such well at fair market value; and

– the cost of the improvements including all required treatment works in accordance with the **DCC** capital budget (as opposed to actual costs), which budget is expected to be based upon cost estimates for costs to complete and actual costs for completed works; and

(ii) to the extent the **DCC** funds collected to the date of dedication are inadequate to provide for such cash reimbursement, the **Owner** would be provided with **DCC** credits against **DCCs** payable, to the full amount that had not yet been reimbursed, with such **DCC** credits continuing to be available to the **Owner** in respect of the entire **Fairwinds Project** until the full amount calculated as set out above is recovered by the **Owner**;

(f) upon the construction and dedication by the **Owner** of any of the **Other Nanoose Water Works,** the **Owner** would be entitled, further to section 935(3)(d) of the *Local Government Act,* to cash reimbursement and DCC credits on the same basis.

In furtherance of the foregoing, **Regional District** staff have brought forward to the Regional Board in November, 2013 a proposal to amend the **Regional District's** existing Bulk Water Development Cost Charge Bylaw (1998).

(3) Ground Water Additions, including Quantity and Quality Standards

24. The **Parties** presently anticipate that the **Owner** will diligently pursue the addition of the **Wallbrook** wells first (in accordance with the Wallbrook Groundwater Well Approval Process set out in Schedule 9), but if any of those wells should prove not to meet the **Community Water System Standards**, or if all the **Wallbrook** wells have been dedicated to **Regional District** and **ERWS** water is not yet available to service new development, then the **Owner** may acquire, make up and dedicate other additional ground water wells in compliance with **Community Water System Standards** or as the **Regional District** may otherwise agree with respect to any surplus wells it owns.

E.2 Review of criteria

25. The **Parties** presently anticipate that, in order to assist the assessment of sustainability outcomes and conservation measures, the **Regional District** will measure, record and review actual water usage data by land use type, and available population per household data, to enable it to consider the potential for future reductions to water supply ratios due to conservation measures to be utilized in the **Subdivision Servicing Standards**. (*NP references: LD 6.1(c)).*

F. SANITARY SEWER

26. The **Owner** and **Regional District** staff are generally supportive of the approach set out in paragraphs 28 through 33 hereof as regards the following aspects of sanitary sewer infrastructure:

(a) sewage treatment plant upgrade, expansion and replacement;

(b) on-site sanitary sewage works; and

(c) review of criteria.

27. The approach has been arrived at in light of the **Context**, and the following additional considerations, and others:

(a) the **MoE** requires the **Regional District** to upgrade the level of treatment at the **NBPCC** to standards set out in the Municipal Wastewater Regulation. The mechanism for planning and implementing this upgrade is the **Regional District**'s Liquid Waste Management Plan ("**LWMP**"). Authority to discharge wastewater effluent to the environment is through the **LWMP**;

(b) the **Regional District** is in the process of amending its **LWMP**. Specific decisions related to future treatment at **NBPCC** are dependent upon the outcome of the current **LWMP** amendment process. The **LWMP** amendment must be approved by the **MoE**, and timing is therefore subject to Provincial priorities;

(c) the **Regional District** intends to submit a **LWMP** amendment in early 2014, which, with regard to **NBPCC**, will reflect a phased approach to the upgrading of the existing capacity to secondary treatment, and the expansion of service capacity to accommodate planned growth per the **OCP**, and any Regional Board approved expansions to the service area, as follows:

(i) "Upgrading" refers to upgrading of the current design capacity of 1250 residential units-to secondary treatment, by replacing the existing primary treatment plant with a new facility, which will be capable of accepting/integrating with future expansions. The existing plant capacity is comprised (as at the current date) of existing users (832 subdivided residential units), and pre-purchased capacity (by the **Owner** under the **1997 Development Agreement**) of 470 residential units; and

(ii) "Expansion" refers to the construction of additional secondary treatment plant module(s) to accommodate the connections beyond the Phase 1 capacity derived from, first, newly subdivided units within the existing service area, and, second, any unit additions resulting from any extension of the service area, if/as

approved by the Regional Board. Depending on the pace of development and economies of scale, Expansion may:

- occur before Upgrading (in which case such may serve to accelerate the Provincial requirement for Upgrading), occur concurrent with Upgrading, or occur after Upgrading; and
- may be completed in more than one subphase at different points in time;

(d) there are currently no provincial or federal funding sources available to assist with funding upgrades at the **NBPCC**;

(e) the **NBPCC** currently has a designed hydraulic capacity of approximately 1,250 residential units and provides advanced primary treatment that does not meet current Municipal Wastewater Regulation Standards. The **MoE** has the authority, through the **LWMP** process, to limit the number of units that may lawfully tie into the existing facility; and

(f) the **Owner** is obligated, as a precondition to subdivision approval, to secure a mechanism for dealing with sanitary waste, and hence, given the limits on the present **NBPCC**, the maximum development capacity of the **Owner's Land** is approximately 470 residential units under the **1997 Development Agreement**.

F.1 Sewage Treatment Plant Upgrade and Expansion
NP references: LD 4.3.4(a), SC 4.3.4(a)

(1) Upgrade of Existing NBPCC

28. The **Parties** presently anticipate that the **Regional District** will pursue an upgrade of the existing **NBPCC** facility to secondary treatment standards, as identified through the **LWMP** amendment process.

(2) Expansion of NBPCC

29. The **Parties** presently anticipate that the **Owner** will:

(a) first utilize the remaining capacity of the **NBPCC**, to the extent it is available; and

(b) if, by the time the **Owner** proposes to submit a subdivision application for which capacity at the **NBPCC** is no longer or not yet available, the **Regional District** agrees that the **Owner** may proceed on the following basis, subject to the requirements of the **MoE**:

(i) treatment of the sewage associated with the subdivision application by way of an appropriate engineering solution funded by the **Owner** to expand capacity at the **NBPCC** site;

(ii) treated effluent to be disposed to the **Regional District** outfall (ie – blended with existing treated effluent if needed); and

(iii) a DCC reimbursement regime similar further to section 935(3)(d) of the *Local Government Act*, and in accordance with the Provincial DCC Best Practices Guide.

30. The **Parties** presently anticipate that engineering, construction, and operation of **Owner** funded expansion(s) will be carried out by the **Regional District.** The **Owner** and **Regional District** will use their best efforts to secure **MoE** approval for Expansion referred to in paragraph 30, if such an approval is needed. The **Owner** may request an independent review of such engineering and the **Regional District** will consider same.

(3) 1997 Development Agreement

31. The **Partie**s presently anticipate acknowledging the **1997 Development Agreement** by way of a new or amended agreement related to the **NBPCC**, and agree to apply it as follows:

(a) identity of **Owner** as 3536696 Canada Inc. and bcIMC Realty Corporation;

(b) service area lands to include **Lakes District** and **Schooner Cove** and other lands within the Fairwinds **RVC** area;

(c) statistics for completed development to date as per **Density & Sewer Service Records**, noting that the current total sewage connections within the **RVC** is 832 residential units and commercial equivalents, including 52 residential units provided by **Regional District** to third parties (the Regional District-Utilized Capacity), which the **Regional District** confirms would be reflected on a go-forward basis by providing the **Owner** with a total of 470 residential units from the current **NBPCC,** insofar as the **Regional District** can lawfully provide same;

(d) the **Schooner Cove** Hotel & Schooner House Condominiums are now serviced by **Regional District** community sewer, and the **Schooner Cove** treatment plant and outfall is no longer operational;

(e) the “Schedule B Lands” are no longer contemplated; and

(f) the “Schedule F” criteria for deciding when to commence **NBPCC** expansion based on actual sewage flows will be updated such that the Anticipated Maximum Annual Rate of Housing Occupancy equals 100 single family units (or equivalent sewage flows.

F.2 On Site Sanitary Sewer Works

32. Notwithstanding the **Community Sanitary Sewer Standards**, the **Regional District** agrees that the **Owner** may construct individual home lift pumps in the locations shown on the **Infrastructure Phasing Plan**.

F.3 Review of criteria
NP references: LD 6.1(c)

33. The **Regional District** anticipates measuring, recording and reviewing actual sewage flow data and available population per household data, so that it may consider reductions to the sanitary capacity calculations for each housing/commercial unit type due to conservation measures.

G. PARKS

34. The **Owner** and **Regional District** staff are generally supportive of the approach set out in paragraphs 35 and 36 hereof as regards the following aspects of parks:

(a) wildlife underpasses; and

(b) section 46 of the **PDA**.

35. The **Owner** will design and construct wildlife road underpasses as required to comply with applicable Provincial and Federal regulations, and per recommendations of an Registered Professional Biologist. *NP reference LD 4.1.1(f)*

36. If park land is diminished per section 46 of the **PDA**, the **Parties** will seek to mitigate environmental impact in a manner that is mutually acceptable.

H. DOCKS

37. In addition to the boat access dock contemplated in the **PDA,** the **Owner** may wish to construct two additional docks, with wood or plastic decking, in the locations shown on the Lakes District Park Improvements Phasing Plan which is Schedule "E" to the **PDA**. If the **Owner** wishes to proceed with one or both such docks, the **Regional District** will consider granting the necessary license(s) on similar terms to those contemplated in the **PDA**.

I. PROJECT SIGNAGE

38. If requested by the **Owner,** the **Regional District** will consider allowing development permit variances to Regional District Bylaw 993 to allow project signage, having a height of approximately six metres and width of approximately four metres, to be located within setback areas.

J. DESIGNATED CONTACTS

39. Each **Party** designates the following contact person in connection with further steps to be taken in connection with the implementation of this Memorandum of Understanding, provided that either **Party** may update its contact by providing notice in writing to the other **Party's** contact person:

(a) The **Owner**

Bentall Kennedy (Canada) LP
Attention: Russell Tibbles,
Vice President, Development & Operations, Fairwinds
Telephone: 250-339-1777
e-Mail: rtibbles@bentallkennedy.com

(b) The **Regional District**

Regional District of Nanaimo
Attention: Geoff Garbutt,
General Manager, Strategic & Community Development
Telephone: 250-390-4111 Ext. 6500
e-Mail: ggarbutt@rdn.bc.ca

BCIMC REALTY CORPORATION

Per: _____
(Authorized Signatory)

Per: _____
(Authorized Signatory)

Dated: Jul 17, 2014

3536696 CANADA INC.

Per: _____
(Authorized Signatory)

Per: _____
(Authorized Signatory)

Dated: Jul 17, 2014

REGIONAL DISTRICT OF NANAIMO

Per: _____
(Authorized Signatory) Joe Stanhope, Chairperson

Per: _____
(Authorized Signatory) Jacquie Hill, Corporate Officer

Dated: July 23, 2014