

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



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

KAHN ZACK EHRlich LITHWICK LLP
 270 - 10711 Cambie Road
 Richmond BC V6X 3G5

Telephone: (604) 270-9571
 LTO Client No. 011757
 File No. 46320

Deduct LTSA Fees? Yes

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

005-496-497 LOT B SECTION 1 NANAIMO DISTRICT PLAN 8979

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

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

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

(b) Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

CITY OF NANAIMO

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

SSS MANHAO INTERNATIONAL TOURISM GROUP (CANADA) CO. LTD.

SUITE 270, 10711 CAMBIE ROAD
 RICHMOND

BRITISH COLUMBIA
 CANADA

Incorporation No
 BC0953560

V6X 3G5

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

NANCY PETERSON
 Commissioner for taking
 Affidavits for British Columbia
 455 Wallace Street
 Nanaimo, BC V9N 5J6

(as to all signatures)

Execution Date

Y	M	D
13	10	30

Transferor(s) Signature(s)

CITY OF NANAIMO by its
 authorized signatory(ies):

Mayor: John Ruttan, Mayor

Corporate Officer: Kristin King

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.

Officer Signature(s)



MICHAEL L. LIPTON
Barrister & Solicitor
10711 CAMBIE ROAD
V6X 3G5, BRITISH COLUMBIA
V6X 3G5 604-270-9571

(as to all signatures)

Execution Date

Y	M	D
13	10	21

Transferor / Borrower / Party Signature(s)

SSS MANHAO INTERNATIONAL
TOURISM GROUP (CANADA) CO.
LTD. by its authorized signatory(ies):


Name: _____

Name: _____

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.

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Easement

Dominant Land: PID 029-126-002
Lot A Section 1 Nanaimo City and of the Bed of the
Public Harbour of Nanaimo Plan EPP30518

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

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CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

TERMS OF INSTRUMENT – PART 2

EASEMENT FOR CONNECTION TO PIPER PARK

This Agreement dated for reference the 21st day of October, 2013

BETWEEN:

SSS MANHAO INTERNATIONAL TOURISM GROUP (CANADA) CO. LTD., a company duly incorporated under the laws of the Province of British Columbia having its registered and records office care of Suite 270, 10711 Cambie Road, Richmond, British Columbia V6X 3G5

(the "Owner")

OF THE FIRST PART

AND:

CITY OF NANAIMO, a municipality incorporated under the laws of the Province of British Columbia and having an address at 455 Wallace Street, Nanaimo, British Columbia, Canada V9R 5J6

(the "City")

OF THE SECOND PART

WHEREAS:

- A. Pursuant to an Offer to Purchase between Manhao and the City dated for reference June 19, 2013 (the "Offer to Purchase"), Manhao agreed to purchase from the City for the purpose of developing and operating a hotel (the "Hotel") certain land situated at 100 Gordon Street, Nanaimo, British Columbia, and legally described as:

Parcel Identifier: 029-126-002
Lot A Section 1 Nanaimo City and of the Bed of the Public Harbour of
Nanaimo Plan EPP30518

(the "Land");

- B. The City is the owner in fee simple of that adjacent property to the Land commonly known as Piper Park, which is legally described as:

Parcel Identifier: 005-496-497
Lot B, Section 1, Nanaimo District, Plan 8979

("Piper Park");

- C. Pursuant to the Offer to Purchase, the City's sale of the Land and Manhao's purchase of the Land is subject to Manhao's construction of a connection between Piper Park and the Hotel (the "Connection") in order to provide guests of the Hotel, users of Piper Park and the public generally free access between the Hotel and Piper Park;
- D. By this Agreement and on the terms of this Agreement, the City is prepared to grant to the Owner an easement to permit the Owner to construct and use the Connection between the Hotel and Piper Park;

NOW THEREFORE this Agreement is evidence that in consideration of the mutual covenants contained herein, the payment of \$1.00 by the Owner to the City and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by each of the parties), the City and Owner covenant and agree as follows:

Permission to Encroach

- 1. The City hereby grants to the Owner the non-exclusive right, license, liberty, easement, privilege and permission (the "Easement") to encroach upon Piper Park (the "Easement Area") for the sole purpose of constructing, maintaining, repairing, replacing, occupying, and using the Connection on the terms and conditions of this Agreement.

Use of Connection

- 2. The City grants the Easement to the Owner on the condition that the Owner must permit the Connection to be used to provide guests, employees and others using the Hotel, and users of Piper Park, including members of the public, free access across and along the Connection between the Hotel and Piper Park.
- 3. For certainty, the Owner may not use the Connection for any purpose other than pedestrian access between the Hotel and Piper Park.

Extent and Reduction of Easement Area

- 4. The Owner agrees and acknowledges that despite the grant in Section 1 of a blanket easement over Piper Park, the Connection must be constructed in accordance with section 5 on and over the Land and a small portion of Piper Park and the Owner and the City agree as follows:
 - (a) upon completion of construction of the Connection, the Owner shall cause a British Columbia Land Surveyor to prepare a reference or explanatory plan (the "Plan") showing an easement area of those parts of Piper Park required for the ongoing operation and maintenance of the Connection, with the easement area being of size and dimension reasonably required by the Owner for the purposes of the Easement;

- (b) the Plan prepared under this section 4 must be delivered to the City for review and approval for the purposes of this section and the Owner must cause such changes to the Plan to be made as the City, acting reasonably, considers necessary for the purposes of the Easement;
- (c) once the Plan provided for in this section has been approved by the City under section 4(b), the Owner must cause the approved Plan to be deposited in the Land Title Office and the Owner must, within a reasonable time after request by the City, execute and deliver to the City a discharge or modification of the Easement from any part of Piper Park that is not shown as part of the Easement Area on the approved Plan; and
- (d) upon deposit of the discharge or modification of the Easement in the Land Title Office, reference herein to the Easement Area is a reference to the easement area shown on the approved Plan.

For certainty, if, upon completion of construction of the Connection, the reference or explanatory plan obtained in accordance with section 4(a) reveals that no part of the Connection is located on Piper Park, the Owner must, within a reasonable time after request by the City, execute and deliver to the City a full discharge of this Easement from Piper Park.

Design of Connection

- 5. The Owner shall construct the Connection in strict accordance with the design prepared by gBL Architects, a copy of which is attached to Development Permit 854 (approved by City Council on October 7, 2013), which design, among other things, specifies the dimensions of the Connection, the height of the Connection above ground, the building materials and structural components of the Connection.

Term of Easement

- 6. This Easement commences on the date of its registration in the Land Title Office and continues until such time as the Hotel is intentionally demolished or the Hotel is demolished by earthquake, fire or other similar cause and the Owner chooses not to reconstruct the Hotel, and in that case, the Owner shall:
 - (a) remove the Connection;
 - (b) restore Piper Park to the state it was in at the time of the signing of this Agreement; and
 - (c) discharge this Easement from the Land Title Office.

Ownership of Connection

7. The Owner and City agrees that, despite any rule of law or equity, the Connection belongs at all times to the Owner.

Owner Responsibility

8. The Owner is solely responsible for all aspects of the Connection, including repair, maintenance, cleaning, clearing, replacement, safety, security, inspection, utilities and other matters specified in this Agreement.

Standard to be Met

9. The Owner shall at all times repair, maintain, clean, clear, replace, operate, inspect and keep the Connection in good condition and repair, reasonable wear and tear excepted, that ensures the safe passage of the public across and along the Connection.

Security

10. The Owner is responsible for all aspects of security of the Connection and the Owner may employ security cameras, security guards and other measures to ensure the safety of those using the Connection.

Hours of Opening

11. The Owner may by a system of gates or otherwise prohibit access across and along the Connection from dusk until dawn.

Cleaning

12. The Owner shall clean the Connection and remove all rubbish and debris on a regular basis. The Owner shall have no responsibility for cleaning Piper Park.

Costs

13. The Owner shall be responsible for all costs, payments, outlays and expenses with respect to the Connection and this Agreement, including those associated with engineering, survey, legal, insurance, construction, maintenance, repair, removal, replacement, inspection, cleaning, security, utilities, or servicing, unless any of the aforesaid costs, payments, outlays or expenses are caused by the negligence or deliberate wrongful acts of the City or those for whom the City is responsible at law.

Required Repairs

14. The City may at any time inspect the Connection and the Owner shall conduct any repairs or maintenance to the Connection as directed by the City, acting reasonably, if

the Owner is in breach of its obligations pursuant to section 9. Despite the fact that the City may require repairs to the Connection, the City is not responsible for the condition or safety of the Connection and the City is not required to give any notices to repair.

Disruption of Public Travel

15. The Owner shall give the City notice of its intention to undertake any repairs, maintenance or other work to the Connection which may disrupt public use of Piper Park and, except in the case of an emergency, the Owner shall only undertake such work at those times and dates and under those conditions authorized by the City. In any event, the Owner shall use all reasonable efforts to minimize disruption and inconvenience to the public using Piper Park and where necessary for public safety, the Owner shall place and maintain warning signs, barricades, lights and flares as will give clear warning and protection to the public using Piper Park.

No Termination for Default

16. In the event that the Owner breaches any term, condition, covenant or provision of this Agreement, the Owner shall remedy the breach within 15 days of receipt of a notice from the City (or such longer time reasonably required to remedy the said breach if it cannot be remedied in such 15 day period) and if the breach is not remedied to the satisfaction of the City within the time specified, the parties agree that, due to the essential nature of the Connection, this Agreement will not be terminated for default, but the City may apply to court for a remedy in the form of injunction, damages, or other legal remedy to enforce compliance by the Owner of its obligations pursuant to this Agreement.

Action by City

17. If the Owner fails to do any matter required of it under this Agreement, the City is entitled to take all such actions on the Owner's behalf and at the Owner's cost, and the Owner shall pay the City its costs immediately upon receipt of an invoice from the City, but the City is in no circumstance liable for its failure to do so or its manner of doing so.

Compensation

18. Notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Connection under section 6 and, without limitation, the Owner shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Connection under section 6.

Acknowledgement of Use as Park

19. The Owner acknowledges and agrees that the Easement Area is used as a public park and that this Agreement shall not in any way restrict the right of the City to at any time:

- (a) improve, maintain, or otherwise alter Piper Park;
- (b) inspect, install, improve, maintain, alter or permit any structure, service or utility on, over or under any portion of Piper Park; or
- (c) permit other encroachments or use of Piper Park,

provided there is no material detrimental effect on the Connection and there is no material disruption to the Owner's operation of the Hotel.

Compliance with Laws

20. The Owner shall carry on and conduct its activities on the Easement Area in compliance with any and all applicable statutes, enactments, bylaws, regulations and orders from time to time in force and obtain and maintain all required approvals, permits and licenses thereunder and not to do or omit to do anything upon or from the Easement Area in contravention thereof.

Discharge of Agreement

21. Upon the expiry or other termination of this Agreement, the Owner shall execute and file in the Land Title Office a discharge of this Easement.

Release of Liability

22. The Owner hereby releases the City and its elected officials, officers, employees and agents (the "City Representatives") from all claims, demands, losses and costs which the Owner may at any time incur or suffer due to or related to or arising from the existence or use of the Connection or Easement Area or the granting of this Agreement or any act or omission of the City or the City Representatives pursuant to this Agreement unless caused by the negligence or deliberate wrongful acts of the City, the City Representatives or those for whom the City is responsible at law.

Indemnity

23. The Owner hereby indemnify and save harmless the City and the City Representatives from all actions, proceedings, claims, demands, debts, damages, losses, costs and other harm of whatever kind which may at any time be suffered or incurred by the City of the City Representatives, by reason of, arising from or in any way relating to the existence or use of the Connection or Easement Area, the granting of this Agreement, or the acts, omissions, negligence or default (including breach of bylaws) of the Owner or its directors, officers, employees, tenants, invitees, guests, contractors, licensees, agents and others for whom it is responsible unless caused by the negligence or deliberate wrongful acts of the City, the City Representatives or those for whom the City is responsible at law.

24. The obligation of the Owner to release and indemnify the City and the City Representatives survives any expiry or termination of this Agreement.

Insurance

25. The Owner shall take out and maintain at all times throughout the term of this Agreement a policy of comprehensive general liability insurance providing coverage for all potential losses under this Agreement (including death, bodily injury, property loss, property damage, consequential and economic losses), in an amount of not less than Five Million (\$5,000,000.00) Dollars per occurrence, or such greater amount as the City may require from time to time, which policy names the City as an additional insured, a term of which policy will (if possible) be that it cannot be cancelled or altered without prior notice to the City, and which policy waives all rights of subrogation, a copy of which policy (or certificate of insurance) must be delivered to the City at the time of execution of this Agreement and at other times required by the City.

Entire Agreement

26. This Agreement is the entire agreement between the City and the Owner in respect of its specific subject-matter and nothing in the Agreement affects the Offer to Purchase or any other agreement between the City and the Owner.

No Representations

27. The City has made no representations, warranties, guarantees, promises, covenants or agreements to or with the Owner in respect of the particular subject-matter of this Agreement.

Amendment

28. No amendment to this Agreement is valid unless in writing and executed by the parties.

Interpretation

29. In this Agreement:
- (a) wherever the singular or masculine is used the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties hereto so require;
 - (b) every reference to a party is deemed to include heirs, executors, administrators, successors, assigns, officers and employees of such parties wherever the context so requires or allows; and
 - (c) the headings are inserted for reference and convenience only and must not be used to construe or interpret the provisions hereof.

Covenants

30. All provisions of this Agreement are to be construed as covenants.

Time

31. Time is of the essence of this Agreement.

Interest in Land

32. This Agreement shall charge Piper Park and the burden of all the covenants herein shall run with Piper Park and charge Piper Park and every part into which Piper Park may be divided or subdivided.

Waiver

33. Waiver of any default by any party will not be deemed to be a waiver of any subsequent default by that party. All waivers must be in writing.

Powers Preserved

34. Nothing contained or implied herein shall prejudice or affect the rights and powers of the City in the exercise of its functions pursuant to the *Local Government Act*, (B.C.) or the *Community Charter* (B.C.) or its rights and powers under all of its public and private statutes, bylaws, orders and regulations.

Notice

35. Any notice which may be given pursuant to this Agreement must be in writing and delivered by hand and addressed to the applicable party at its address set out above, or to such other address as the party may specify by notice in writing to the other in accordance with this section.

A notice will be deemed to be given on the day of delivery.

All notices to the City must be addressed to the attention of the City's Corporate Officer.

Governing Law

36. This Agreement will be governed by and construed in accordance with the laws in force in the Province of British Columbia.

Invalidity

37. If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid

portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

Further Assurances

38. The parties shall do and cause to be done all things and execute and cause to be executed all documents that may be necessary to give proper effect to the intention of this Agreement.

Joint and Several

39. If at any time more than one person (as defined in the *Interpretation Act* (British Columbia) owns the Land, each of those persons will be jointly and severally liable for all of the obligations of the Owner under this Agreement.

Enurement

40. This Agreement will enure to the benefit of and be binding on the parties and their respective corporate successors, successors in title, heirs, executors, administrators, and personal representatives, notwithstanding any rule of law or equity to the contrary.

Interest

41. All monies owing and unpaid by the Owner to the City under this Agreement will bear interest at the rate of 6% per annum, compounded and calculated semi-annually not advance.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the Form C above.

END OF DOCUMENT