

LAND TITLE ACT
FORM C

19 JAN 2006 09 46

FA009239

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

PAGE 1 of 14 pages

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

MACKENZIE FUJISAWA LLP
Barristers & Solicitors
1600 - 1095 West Pender Street
Vancouver, British Columbia V6E 2M6
(604) 689-3281

JYE & DURHAM

M. Wynick
Signature of applicant, applicant's solicitor or agent

Robert H. Wynick

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

018-184-669

Lot B, District Lot 14, Wellington District, Plan VIP56222, Except Plan
VIP71177

3. NATURE OF INTEREST*
DESCRIPTION

DOCUMENT REFERENCE
(Page and paragraph)

PERSON ENTITLED TO INTEREST

Section 219 Covenant

Entire Instrument

Grantee

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
- (c) Release There is no Part 2 of this instrument

A selection of (a) includes 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)/Mortgagor(s): *

INSIGHT HOLDINGS LTD. (Inc. No. 0521297)

6. TRANSFEREE(s)/Grantee(s): *

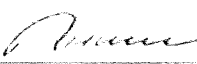
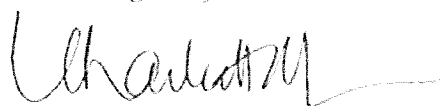

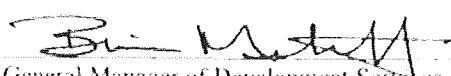
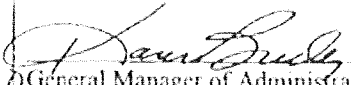
CITY OF NANAIMO, 455 Wallace Street, Nanaimo, BC V9R 5J6

02 06/01/19 09:46:52 02 VI 679590
CHARGE 164.75

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(s) | Execution Date | | | Party(ies) Signature(s) |
|--|----------------|----------|----|---|
| | Y | M | D | |
|  ROBERT H. WYNICK <i>Barrister & Solicitor</i> MackENZIE FUJISAWA LLP 1600-1095 West Pender Street Vancouver, B.C. V6E 2M8 604-689-3281 | 06 05 | 01 12 | 6 | INSIGHT HOLDINGS LTD. by its authorized signatory  Print Name: CHARLES KOO |
|  BRIAN SAVAGE <i>Commissioner for taking</i> <i>Affidavits for British Columbia</i> 455 Wallace Street Nanaimo, BC V9R 5J6 | 06 05 | 01 12 | 12 | CITY OF NANAIMO by its authorized signatories  General Manager of Development Services BRIAN MEHAFFEE  General Manager of Administrative Services KAREN BULEY |

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**WHEREAS:**

- A. The Grantor is the registered owner in fee simple of:
PID 018-184-669
Lot B, District Lot 14, Wellington District, Plan VIP56222, Except Plan VIP71177
(the "Land");
- B. The Grantee is the City of Nanaimo;
- C. The Grantor acknowledges that it is in the public interest that the subdivision, use and development of the Land be limited and that a community contribution be voluntarily provided and wishes to grant this Covenant to the Grantee;
- D. The Grantor has agreed to enter into this Covenant and to register it against the title to the Land as a covenant and indemnity under section 219 of the *Land Title Act*.

NOW THEREFORE, in consideration of the payment of the sum of \$1.00 by the Grantee to the Grantor and the premises and the covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree with the other as follows:

1. In this Covenant,
- (a) "Development Plan" means the "Conceptual Site Plan" dated September 29, 2005, as submitted to the Grantee's Council on September 29, 2005, as attached to and forming part of this Covenant as Schedule "A";
 - (b) "Geotechnical Report" means the Geotechnical Evaluation report dated September 15, 2005 and received by City of Nanaimo Development Services on September 19, 2005, as attached to and forming part of this Covenant as Schedule "B";
 - (c) "Oliver Road Reprofiting Plan" means Newcastle Engineering's drawing L230-01-11 dated July 26, 1999, as attached to and forming part of this Covenant as Schedule "C";
 - (d) "Tree" means any standing, living, woody plant which is five (5) metres (16.3 feet) or more in height and ten (10) centimetres (3.9 inches) or more in diameter;
 - (e) "Zoning Bylaw" means the Grantee's Zoning Bylaw 1993 No. 4000 as may be amended from time to time; and
 - (f) the definitions of the Zoning Bylaw shall otherwise apply.

2. Notwithstanding broader or greater permitted uses, density and other regulations in the Zoning Bylaw and other bylaws, as may be amended from time to time, development of the Land shall not proceed except as approved by the Grantee and in general compliance with the Development Plan, and shall be limited as follows:
- (a) the commercial development of the Land shall be limited to one professional office building:
 - (i) no greater than 550 square metres in gross floor area, 5920 sq ft
 - (ii) no higher than two storeys above underground parking,
 - (iii) providing no less than 57% of required parking underground, and
 - (iv) having no surface parking between the building and adjacent streets, being Uplands Drive and Oliver Road,
 - (b) the residential development of the Land shall be limited to two buildings providing no less than 50% of required parking underground
3. The Grantor covenants and agrees to:
- (a) prior to the issuance of a building permit, determine and provide to the Grantee the level of pre-development flows onto adjacent properties and highways, and
 - (b) at no time permit storm water flows onto adjacent properties and highways to exceed pre-development flow levels
4. The Grantor covenants and agrees not to apply for subdivision, a Development Permit or Building Permit with respect to the Land until it has updated the Geotechnical Report to include provisions dealing with erosion and sediment control during development of the Land. The Grantor must not subdivide or develop the Land in a manner inconsistent with the updated geotechnical report.
5. The Grantor covenants and agrees not to cut, trim, prune, damage, defoliate or remove any Tree until securing a Development Permit for the Land, regardless of whether any Development Permit is normally required by the Grantee's bylaws for tree removal.
6. The Grantor covenants and agrees not to apply for a Development Permit or a Building Permit with respect to the Land until it:
- (a) has reprofiled and constructed Oliver Road in substantial compliance with the Oliver Road Reprofiting Plan, which shall include:
 - (i) full works and services fronting the Land to the centre line of Oliver Road, and
 - (ii) full works and services, but not including curb, gutter and sidewalk, from the centre line of Oliver Road to the side opposite the Land, or

- (b) has provided an amount of security, as determined by the Grantee in its sole discretion, sufficient to conduct the works and services in paragraph (a) on this clause
7. The Grantor covenants and agrees not to apply for a Development Permit or Building Permit with respect to the Land until it has voluntarily provided a community contribution in the amount of \$25,000.00, in addition to and without expectation of credit towards other fees, charges, dedications and other requirements of the Grantee or other governmental authority
 8. The Grantor covenants and agrees not to apply for a Building Permit to construct any building or structure on the Land until the left turn lane onto Oliver Road from Highway 19A has been lengthened to a sufficient capacity to accommodate the proposed development on the Land, as determined by the Ministry of Transportation in its sole discretion. The Grantor will either conduct the necessary works to satisfy this provision or make arrangements to pay for the works
 9. The Grantor and the Grantee agree that the enforcement of this Covenant shall be entirely within the discretion of the Grantee and that the execution and registration of this covenant against the title to the Land shall not be interpreted as creating any duty on the part of the Grantee to the Grantor or to any other person to enforce any provision or the breach of any provision of this Covenant
 10. Nothing contained or implied herein shall prejudice or affect the rights and powers of the Grantee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if the Covenant had not been executed and delivered by the Grantor.
 11. The Grantor hereby releases and forever discharges the Grantee of and from any claim, cause of action, suit, demand, expenses, costs and legal fees whatsoever which the Grantor can or may have against the said Grantee for any loss or damage or injury that the Grantor may sustain or suffer arising out of the subdivision, development or the use of the Land
 12. The Grantor covenants and agrees to indemnify and save harmless the Grantee from any and all claims, causes of action, suits, demands, expenses, costs and legal fees whatsoever that anyone might have as owner, occupier or user of the Land, or by a person who has an interest in or comes onto the Land, or by anyone who suffers loss of life or injury to his person or property, that arises out of the subdivision, development or the use of the Land
 13. It is mutually understood, acknowledged and agreed by the parties hereto that the Grantee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Grantor other than those contained in this Covenant
 14. This Covenant shall be registered as a first charge against the Land and the Grantor agrees to execute and deliver all other documents and provide all other assurances necessary to give effect to the covenants contained in this Covenant

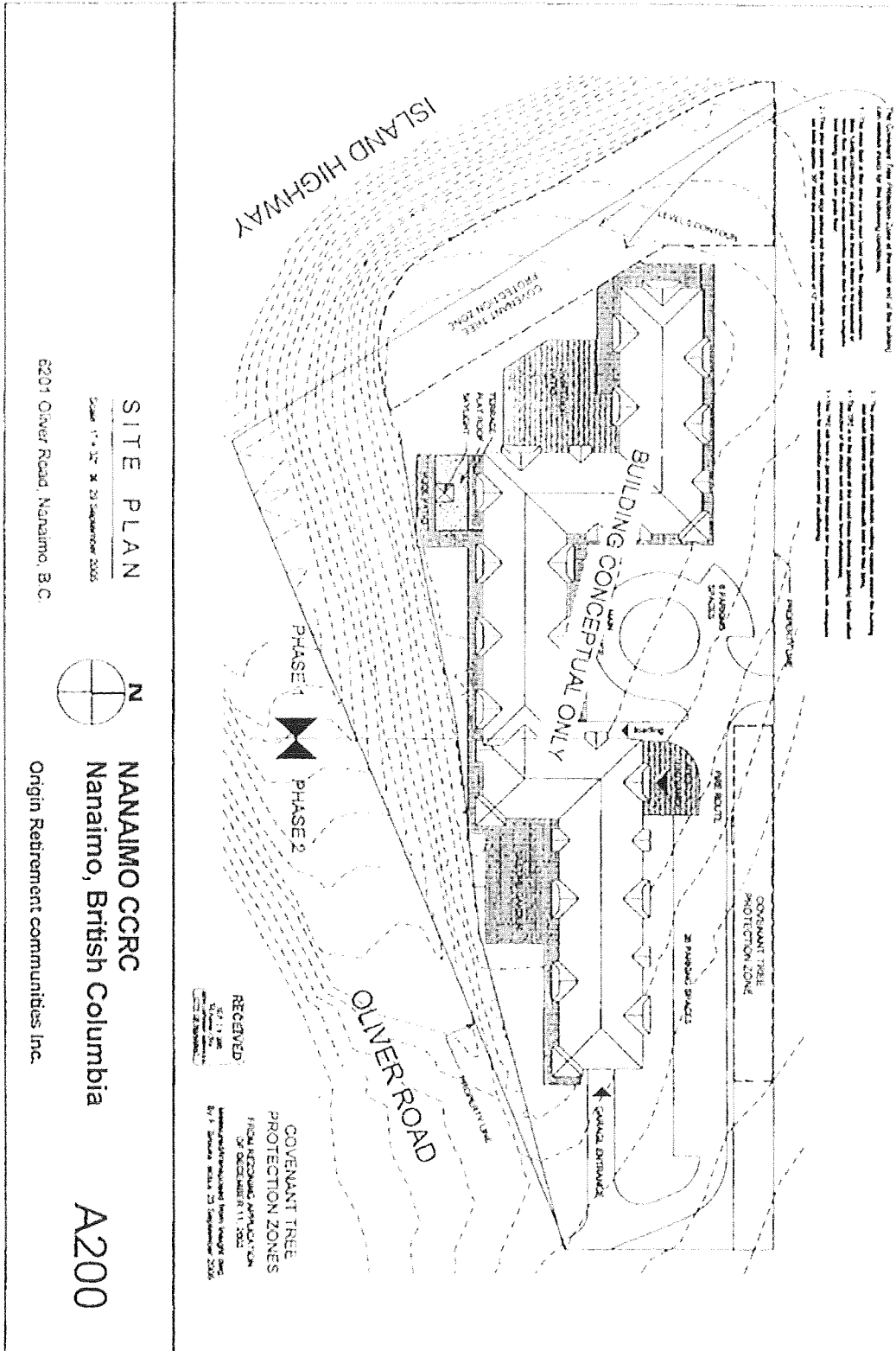
Page 6 of 14 pages

15. The Grantor shall pay the legal fees of the Grantee in connection with the preparation and registration of this Covenant.
16. The Grantor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions hereinbefore set out and they shall be binding upon the Grantor as personal covenants only during the period of its respective ownership of any interest in the Land.
17. The restrictions and covenants herein contained shall be covenants running with the Land and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section 219 of the *Land Title Act* as covenants in favour of the Grantee as a first charge against the Land
18. This Covenant shall enure to the benefit of the Grantee and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns
19. Wherever the expressions "Grantor" and "Grantee" are used herein, they shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Covenant has been duly executed and delivered by the parties executing Form C (pages 1 and 2) attached hereto.

SCHEDULE A

Page 7 of 14 pages



SITE PLAN
 Scale: 1" = 50' AS 20 September 2005
 6201 Oliver Road, Nanaimo, B.C.

NANAIMO CCRC
 Nanaimo, British Columbia
 Origin Retirement communities Inc.

A200

22:50:18 10/27/06

SCHEDULE B Page 8 of 14 pages
Lewkovich Geotechnical Engineering Ltd.



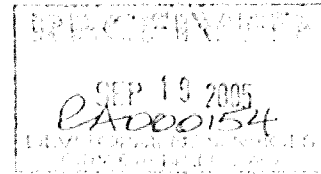
File: G3665.01
September 15, 2005

Insight Group Development Corporation
#16 - 5769 Turner Road
Nanaimo, B.C.
V9T 6L8

Attention: Ms. Tracy McLean

**PROJECT: PROPOSED RESIDENTIAL DEVELOPMENT
6201 OLIVER ROAD, NANAIMO**

SUBJECT: GEOTECHNICAL EVALUATION



Dear Ms. McLean:

1. Introduction

- a. As requested by Ms. Tracy McLean of the Insight Group Development Corporation, Lewkovich Geotechnical Engineering Ltd. evaluated geotechnical site conditions at the referenced property. The purpose of this work was to determine whether the property is geotechnically safe and suitable for the intended use. "Intended use" as defined for the purposes of this report is taken as including a multi-phased residential structure up to four storeys high with associated parking. This letter summarizes the results of our evaluation, and provides our comments, conclusions and recommendations.

- b. Our evaluation was based on the City of Nanaimo "Guidelines for the Preparation of Geotechnical Reports". Briefly, these guidelines stipulate that the report is to identify natural hazards that may affect the "safe" development of the land, and to provide recommendations to reduce the risk of damage to the land, buildings and the Works and Services. Lewkovich Geotechnical Engineering Ltd. had previously evaluated conditions on this property in 2003. However, we have re-visited the site given changes in proposed land use, as well as completion of conceptual drawings prepared by A. Robert Murphy Architect Incorporated.

Suite A - 2569 Kenworth Road, Nanaimo, British Columbia, V9T 3M4
Telephone: (250) 756-0355 Facsimile: (250) 756-3831

Page 9 of 14 pages

Insight Group Development Corporation
File: G3665.01
September 15, 2005
Page 2 of 6



- c. In general, the proposed project area will include an initial phase consisting of a four storey building within the western part of the development area. The second phase will include a three storey addition to the east. The structure will have associated underground and surface parking, as well as ancillary landscaping features. An examination of building elevations indicates that the building area will include excavation into the existing ground surface of about two to three metres.
- d. The site is located north-west of the intersection of the old Island Highway and Oliver Road, and has the legal description of Lot B, District Lot 14, Wellington District, Plan VIP56222 Except Plan VIP71177.

2. Site Conditions

- a. The study area consists of a triangular shaped property with its long axis parallel to Oliver Road. (For the purposes of description in this report, please note that we have taken Oliver Road as being oriented at an east/west direction, and the Island Highway as being in a north/south direction) The subject property is currently undeveloped.
- b. The property essentially consists of a knoll, sloping down gently to the north and east. However, the southern and western sides of the property have been graded to accommodate road alignments for the old Island Highway and Oliver Road. These excavation faces vary up to about 15 metres in height for the Island Highway. Relief within the property, outside of the two roadway cuts, is about ten metres. Slope inclinations for the roadway cuts are typically 1.7 Horizontal: 1 Vertical for the Highway cut, and 2 Horizontal: 1 Vertical for the Oliver Road cut.
- c. The roadway cuts are vegetated with grasses and other low shrubs. The upper plateau area is largely forested with a mature mixed growth of arbutus, maple, fir, and other mixed coniferous trees.

Lewkowich Geotechnical Engineering Ltd.

Page 10 of 14 pages

Insight Group Development Corporation
File: G3665.01
September 15, 2005
Page 3 of 6



- d. As part of our site assessment, we examined the cut slopes for evidence of instability. There were no signs of any large scale instability at either road cut. A small, localized and shallow area of raveling is present near the base of the Highway cut, although this area has remained essentially unchanged for several years. Minor rilling appears to have occurred prior to establishment of ground cover vegetation, but there is no evidence of more recent erosion within the property, or within the roadway cuts flanking the site.
- e. Exposures within the property indicate that the site's soils consist of a veneer of sand and gravel below the natural topsoil horizon. Soils exposed at depth along the faces of the roadway cuts indicate that this veneer is underlain by a dense to very dense mixture of silt, sand and gravel with occasional cobbles. This latter material is interpreted to be a glacial till deposit.
- f. As part of our site evaluations, we have reviewed composite plans prepared by Island Geotechnical Services Ltd. in 1979. Those plans show the extent of underground abandoned coal mining in the Nanaimo area. This site is well away from any documented mines.
- g. Following our visual examination of this property, and of immediately adjacent land, we conclude that the site is not impacted by flooding, shallow ground water conditions, or liquefaction (such as from seismic action). Slope stability issues are discussed in the following section of this report.
- 3. Conclusions and Recommendations**
- a. Comments and conclusions presented here take into account guidelines dated May, 1997 by the City of Nanaimo for the preparation of geotechnical reports. Specifically, our evaluation took into account those natural hazards which may affect the safe development of the land. Therefore, this report is intended to meet the following stated objectives:

Lewkowich Geotechnical Engineering Ltd.

Page 11 of 14 pages

Insight Group Development Corporation
File: G3665.01
September 15, 2005
Page 4 of 6



- i. acknowledge that the City, its Approving Officer and building inspectors may rely on the Report when making a decision on applications for the subdivision or development of the land;
 - ii. whether the land is geotechnically safe and suitable for the intended purpose of siting for residential and commercial structures, with a probability of a geotechnical failure or another substantial geotechnical hazard resulting in property damage of less than 10 percent in 50 years;
 - iii. identify any geotechnical deficiency for the design of buildings, proposed service lines, drainage, or roadworks or construction standards intended for the development; and
 - iv. prescribe the geotechnical works and any changes in the standards of the design of the development which are required to ensure the land, buildings, and Works and Services are developed safely for the use intended and which maintain the safety of the land, buildings, and any Works and Services as a condition of approval of the development.
- b. We examined the development area relative to Environmentally Sensitive Area (ESA) and Natural Hazard Area (NHA) designations and Development Permit guidelines of the Official Community Plan (OCP). We noted that this property is outside of any designated Natural Hazard Area, and is not within a Development Permit Area (other than Development Permit Area 21 - Form and Character).
- c. Based on our review of available mine information, it is concluded that the site lies outside of the area of influence of known underground coal mine workings.

Lewkowich Geotechnical Engineering Ltd.

Page 12 of 14 pages

Insight Group Development Corporation
File: G3665.01
September 15, 2005
Page 5 of 6



- d. While the site is not designated as a steep sloping area, the proposed development is potentially impacted by cut slopes that were constructed for installation of the old Island Highway and for Oliver Road. It is our opinion that these slopes are currently in a stable condition, with no signs of large scale instability. A localized and minor slough was observed within a segment of the cut face along the Island Highway. However, we conclude that this is a minor slough, probably due to an isolated weeping sand lens. Additionally, this feature has remained unchanged for several years and is not considered to be of concern.
- e. In addition, the cut face inclinations are not considered to be excessively steep considering the competence of the glacial till soils comprising the bulk of the exposed subsurface soils. However, as a precautionary measure, we recommend that buildings be set back a minimum of five metres from slope crests as measured from the outer face of structurally loaded foundation walls to slope crests. This setback is considered warranted to preclude future slope movements as might occur from seismic action, or from severe storm water flows after the property is developed.
- f. The excavation slopes shall be preserved in a vegetated manner, to mitigate the potential for erosion action.
- g. An examination of the proposed building layout indicates that the building area will include soil removals in the range of two to three metres. In general, this removal will enhance overall site stability, since it represents a net "unloading" of stresses - including an accounting of building loads - within the subsurface soils.
- h. Our comments, conclusions and recommendations take into account a maximum probability of risk up to ten percent in fifty years. We conclude that the subject site is geotechnically safe and suitable for the intended use of siting a residential subdivision, provided recommendations given here are followed during design and construction.

Lewkowich Geotechnical Engineering Ltd.

Page 13 of 14 pages

Insight Group Development Corporation
File: G3665.01
September 15, 2005
Page 6 of 6

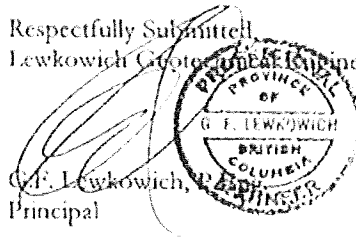


4. Closure

Lewkovich Geotechnical Engineering Ltd. appreciates the opportunity to be of service on this project. If you have any comments, or if we can be of further service, please contact us at your convenience.

Respectfully Submitted,
Lewkovich Geotechnical Engineering Ltd.

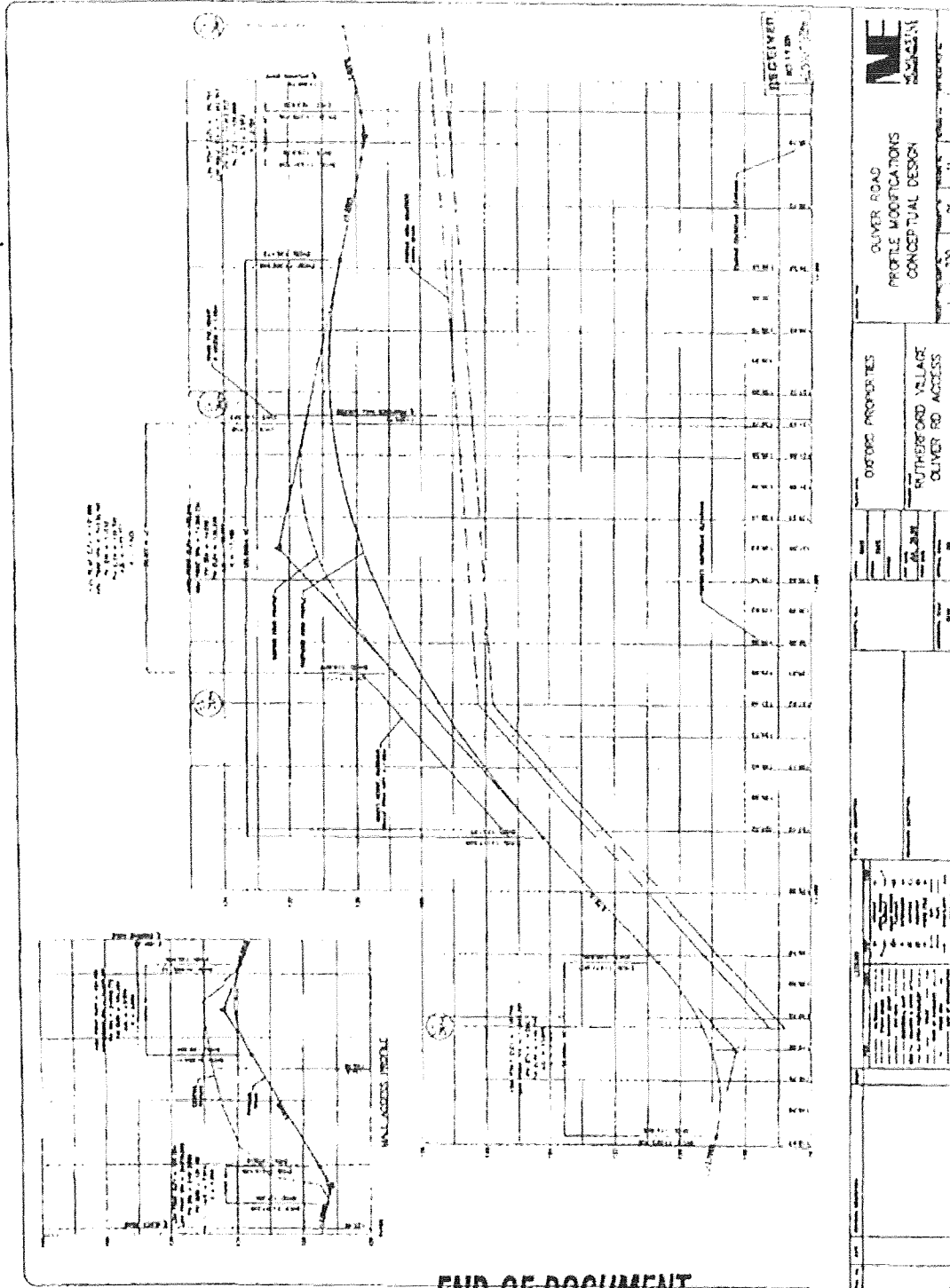
G.F. Lewkovich,
Principal



Lewkovich Geotechnical Engineering Ltd.

Page 14 of 14 pages

SCHEDULE C



END OF DOCUMENT