



1. Application

Document Fees: \$165.04

**JOSEPH R. SCAFE  
 YOUNG ANDERSON  
 1616 - 808 Nelson Street  
 Vancouver BC V6Z 2H2  
 6048894951**

File No.: 37-636  
 Covenant and Rent Charge

2. Description of Land

PID/Plan Number	Legal Description
<b>032-109-831</b>	<b>LOT 1 SECTIONS 14 AND 15 RANGE 7 MOUNTAIN DISTRICT PLAN EPP125890</b>

3. Nature of Interest

Type	Number	Additional Information
<b>COVENANT</b>		<b>S.219</b>
<b>RENT CHARGE</b>		<b>Section 5</b>

4. Terms

Part 2 of this instrument consists of:  
**(b) Express Charge Terms Annexed as Part 2**

5. Transferor(s)

**2779022 ONTARIO INC., NO.A0117867**

6. Transferee(s)

**CITY OF NANAIMO  
 455 WALLACE STREET  
 NANAIMO BC V9R 5J6**

7. Additional or Modified Terms



8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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.

Witnessing Officer Signature

\_\_\_\_\_

**Jessie S.W. Ma**  
**Barrister, Solicitor & Notary Public**  
 1090 Don Mills Road  
 Suite 400  
 Toronto ON M3C 3R6

Execution Date

YYYY-MM-DD

**2026-02-04**

Transferor / Transferee / Party Signature(s)

**2779022 ONTARIO INC.**  
 By their Authorized Signatory

\_\_\_\_\_

**Name: Alan Lam**

LSO #68816U

**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.

Witnessing Officer Signature

\_\_\_\_\_

**Setia Lindsay**  
**Commissioner for Taking Affidavits  
 for British Columbia**  
 City of Nanaimo  
 455 Wallace Street  
 Nanaimo BC V9R 5J6

Execution Date

YYYY-MM-DD

**2026-02-12**

Transferor / Transferee / Party Signature(s)

**CITY OF NANAIMO**  
 By their Authorized Signatory

\_\_\_\_\_

**Name: Jeremy Holm**

Expiry Date: 2027-Mar-31

**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.

**Electronic Signature**

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996, c 250, that you certify this document under section 168.41 (4) of the Act, and that an execution copy, or a true copy of that execution copy, is in your possession.

**Joseph Robertson**  
**Scafe 5GMIFM**

**Digitally signed by**  
**Joseph Robertson Scafe**  
**5GMIFM**  
**Date: 2026-02-13**  
**10:14:41 -08:00**

## TERMS OF INSTRUMENT – PART 2

### SECTION 219 COVENANT

THIS AGREEMENT, dated for reference the 2<sup>nd</sup> day of February, 2026, is

BETWEEN:

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

(the “**City**”)

AND:

**2779022 ONTARIO INC.** (Inc. No. A0117867)  
122 Betty Ann Drive  
Toronto, ON M2N 1X4

(the “**Owner**”)

GIVEN THAT:

- A. The Owner is the registered owner of the parcel or parcels of land legally described in the General Instrument – Part 1 (*Land Title Act* Form C) attached to and forming part of this Agreement (the “**Lands**”);
- B. The Owner has submitted a Development Permit application (DP001376) for a data centre on the Lands consisting of computer, telecommunications and storage systems, the cooling of which will consume a significant quantity of water;
- C. The City has committed to water conservation as an objective in its Official Community Plan (*City Plan*) and is concerned about the quantity of water the data centre may consume;
- D. Section 219 of the *Land Title Act* of British Columbia permits the registration of a covenant of a negative or positive nature in favour of a municipality in respect of the use of land, the building on land, the subdivision of land, and the preservation of land or a specific amenity on land; and
- E. The Owner wishes to grant and the City wishes to accept these covenants over the Lands restricting the use of the Lands in the manner herein provided.

THIS AGREEMENT is evidence that in consideration of the payment of one (\$1.00) dollar from the City to the Owner and other good and valuable consideration (the receipt and sufficiency of which



where "CPI Index" means the All-items Consumer Price Index published by Statistics Canada, or its successor in function, for Vancouver, British Columbia.

- (c) The obligations of the Owner to pay the Rent Charge shall be suspended and deferred in each year and shall not accrue in that year or from year to year so long as the Owner is not in breach of any of its obligations in section 3 of this Agreement. However, in any year in which the City gives written notice to the Owner that the Owner is in default of one or more obligation(s) under section 3 and the City elects to initiate the Rent Charge, the Rent Charge shall cease to be suspended and deferred, and shall operate and shall be payable on the date that is 14 days from the date of the said notice, and every anniversary of that date, subject only to subsection (c), below.
  - (d) Following payment of a Rent Charge under subsection (b), the City may reinstate a suspension and deferral of the Rent Charge and may do so on any conditions or terms (including the taking of security) imposed by it, acting reasonably, but such reinstatement of the suspension and deferral of the Rent Charge shall not be a bar or impediment to its future operation, and shall not create any estoppel in respect to the continued operation and effect of this section or any other section of this Agreement.
  - (e) The City covenants and agrees that if any mortgagee commences foreclosure proceedings against the Lands or any lot into which the Lands have been subdivided or otherwise realizes on its security against the Lands or any such lot, the mortgagee shall not be bound to pay any portion of the Rent Charge payable with respect to the Lands or any such lot that accrued prior to the date of the mortgagee taking possession of the Lands or the lot, and the City waives its entitlement to the Rent Charge for such period against the mortgagee.
6. **City Permits** – The Owner agrees that the City may withhold building permits or occupancy permits with respect to any building or other structure from time to time constructed or proposed to be constructed on the Lands, as the City may, in its sole discretion, consider necessary to ensure compliance with this Agreement.
7. **Release and Indemnity** – As an integral part of this Agreement, the Owner hereby releases, indemnifies and saves harmless the City, its elected or appointed officials, officers, employees or agents:
- (a) from and against any and all liability, actions, causes of action, claims, suits, proceedings, judgements, damages, expenses, legal fees, demands and losses at any time suffered or incurred by, or brought against, the City, or any of its elected or appointed officials, officers, employees or agents, arising from or in connection with the granting or existence of this Agreement, the performance of any of the Owner's obligations under this Agreement, the issuance of any permit or approval

by the City or any officers or employee of the City, and any breach of any provision under this Agreement; and

- (b) for all costs, fees and expenses, including legal fees, incurred by the City in the enforcement of this Agreement as a result of any breach of any provision of this Agreement by the covenantor.

8. **Specific Relief** – The Owner agrees that the public interest in ensuring that all of the provisions of this Agreement are complied with strongly favours the award of a prohibitory or mandatory injunction, or an order for specific performance or other specific relief, by the Supreme Court of British Columbia at the instance of the City, in the event of an actual or threatened breach of this Agreement.

9. **No Effect on Powers** – Nothing in this Agreement shall:

- (a) affect or limit the discretion, rights or powers of the City or the City's Approving Officer under any enactment or at common law, including in relation to the use, development or subdivision of the Lands;
- (b) affect or limit any enactment relating to the use, development or subdivision of the Lands; or
- (c) relieve the Owner from complying with any enactment, including in relation to the use, development or subdivision of the Lands.

And the Owner covenants and agrees to comply with all such enactments with respect to the Lands.

10. **City Discretion** – Where the City or a representative of the City is required or permitted under this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent:

- (a) the relevant provision shall not be considered fulfilled unless the approval, opinion, determination, consent or expression of satisfaction is in writing signed by the City or the representative, as the case may be;
- (b) the approval, opinion, determination, consent or satisfaction is in the sole discretion of the City or the representative, as the case may be; and
- (c) the City or the representative, as the case may be, is under no public law duty of fairness or natural justice in that regard and the City or the representative may do any of those things in the same manner as if it were a private person and not a public body or employee or officer thereof.

11. **No Obligation to Enforce** – The rights given to the City under this Agreement are permissive only and nothing in this Agreement shall give rise to any legal duty of any kind on the City to anyone or obligate the City to enforce this Agreement or to perform any act or incur any expense.
12. **Agreement Runs with Land** – This Agreement shall burden and run with, and bind the successors in title to, the Lands and each and every part into which the Lands may be subdivided by any means (including by deposit of a strata plan of any kind under the *Strata Property Act* (British Columbia)).
13. **Waiver** – No waiver by the City of any requirement or breach of this Agreement shall be effective unless it is an express waiver in writing that specifically references the requirement or breach and no such waiver shall operate as a waiver of any other requirement or breach or any continuing breach of this Agreement.
14. **Remedies** - No reference to or exercise of any specific right or remedy by the City shall prejudice or preclude the City from exercising any other right or remedy, whether allowed at law or in equity or expressly provided for in this Agreement, and no such right or remedy is exclusive or dependent upon any other such remedy and the City may from time to time exercise any one or more of such remedies independently or in combination.
15. **Priority** – The Owner shall cause this Agreement to be registered in the applicable land title office against title to the Lands with priority over all financial liens, charges and encumbrances, and any leases and options to purchase, registered or pending registration at the time of application for registration of this Agreement, including by causing the holder of each such lien, charge, encumbrance, lease or option to purchase to execute an instrument in a form required by the City under which such holder postpones all of the holder's rights to those of the City under this Agreement in the same manner and to the same extent as if such lien, charge, encumbrance, lease or option to purchase had been registered immediately after the registration of this Agreement.
16. **Further Assurances** – The Owner shall do and cause to be done all things, including by executing further documents, as may be necessary to give effect to the intent of this Agreement.
17. **Owner's Expense** – The Owner shall perform its obligations under this Agreement at its own expense and without compensation from the City.
18. **Severance** – If any part of this Agreement is for any reason held to be invalid by a decision of a court with the jurisdiction to do so, the invalid portion shall be considered severed from the rest of this Agreement and the decision that it is invalid shall not affect the validity or enforceability of the remainder of this Agreement.
19. **Interpretation** - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this agreement;
- (c) the term “enactment” has the meaning given to it under the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced from time to time, unless otherwise expressly provided;
- (f) reference to a particular numbered section, or to a particular lettered schedule, is, unless otherwise expressly provided, a reference to the correspondingly numbered section or lettered schedule of this Agreement;
- (g) all Schedules to this Agreement form an integral part of this Agreement;
- (h) time is of the essence; and
- (i) where the word "including" is followed by a list, the contents of the list are not intended to limit or otherwise affect the generality of the expression preceding the word "including".

20. **Governing Law** – This Agreement shall be governed by and constructed in accordance with the law of the Province of British Columbia, which shall be deemed to be the proper law hereof.

21. **Enurement** – This Agreement hereof shall enure to the benefit of the parties and their respective successors and assigns, as the case may be.

22. **Modification** – This Agreement may not be modified except by an agreement or instrument in writing signed by the Owner or its successors in title and the City or a successor or assignee.

23. **Entire Agreement** – This Agreement is the entire agreement between the parties regarding its subject.

**24. Execution in Counterparts & Electronic Delivery** - This Agreement may be executed in any number of counterparts and delivered by e-mail, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, provided that any party delivering this Agreement by e-mail shall also deliver to the other party an originally executed copy of this Agreement.

As evidence of their agreement to be bound by this Agreement, the parties have executed the General Instrument – Part 1 (*Land Title Act* Form C) attached to and forming part of this Agreement.

SCHEDULE A



December 8, 2025  
Project: 240793

TOWNSITE PLANNING  
PO Box 160  
Lantzville, BC V0R 2H0

Reference: Wellington Road Data Centre  
2090 East Wellington Road, Nanaimo, BC  
Water Usage

This letter is to confirm the proposed water usage as part of the operations at 2090 East Wellington Road.

The full buildout is to contain ten building modules, to be built in phases. Each module is to contain a data centre which generates a significant amount of waste heat which is required to be dissipated through a mechanical cooling system. As currently proposed, we are utilizing an air to water chiller system which passes warm process water through cooling coils on the roof. During the cooler months, this process is entirely adiabatic and utilizes no water to facilitate the cooling function. When the ambient wet and dry-bulb temperatures rise and capacity of heat transfer is exceeded, a water spray is used to speed the transfer of heat across the coils. The system modulates this water usage to limit consumption with the goal of complete evaporation of the water used, ensuring a limited amount is discharged.

At design conditions for each module, the mechanical cooling systems will require a peak flow of 0.55 L/sec. The majority, 0.41 L/sec, will evaporate as part of the cooling process. The remaining 0.14 L/sec will be discharged into the City's sanitary sewer system, at a maximum temperature of 35C. The water is expected to be clean and clear, with no significant sources of contamination. No substances are added to the water as part of the process.

In addition to process cooling water, domestic water usage is expected to require a peak flow of 0.1 L/sec per module.

Combining the above flow values at full buildout results in a peak flow of 6.5 L/sec.

Taking into account periods of time where no water is required for the cooling process, as well as times where no staff are present, the water use over the course of a full year is expected to be an average flow of 0.80 L/sec.

If there are any questions or concerns with the values presented above, please feel free to contact the undersigned.

Sincerely,

AVALON MECHANICAL

A handwritten signature in blue ink, appearing to read 'Tim Robertson', written over a light blue horizontal line.

Tim Robertson, P.Eng.  
Associate Managing Principal



2025-12-08  
Avalon Mechanical Consultants Ltd.  
Permit to Practice: 1001353

File: 240793 2090 East Wellington Road - Water Usage