

**MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING dated for reference January 31, 2017 is

BETWEEN:

**THE CORPORATION OF DELTA**, 4500 Clarence Taylor Crescent, Delta, British Columbia, V4K 3E2

(“**Delta**”)

AND:

**H. SHARMA & ASSOCIATES INC.** (Inc. No. BC1089749), #1 – 13018 – 84 Avenue, Surrey, British Columbia, V3W 1L2

(the “**Developer**”)

WHEREAS:

- A. Delta is the registered owner in fee simple of those lands and premises located at 11489 – 84<sup>th</sup> Avenue, Delta, British Columbia, legally described as Parcel Identifier: 011-120-045, South Half Lot 2 Except: Part Shown on Plan with Bylaw Filed 35637; Section 25 Township 4 New Westminster District Plan 5159 (the “**Delta Lands**”);
- B. Currently located on the Delta Lands is a building known as the Firehall Centre for the Arts (the “**Firehall**”);
- C. The Developer, or an associated entity, is the registered owner in fee simple of the following lands and premises:
- 11503 – 84th Avenue, Delta, BC  
PID: 008-269-645  
Lot 1 Except: Part Subdivided by Plan 39239, Section 25 Township 4 New Westminster District Plan 15303
- and
- 8447 115<sup>th</sup> Street, Delta, BC  
PID: 005-402-581  
Lot 49 Section 25 Township 4 New Westminster District Plan 39239
- and
- 8455 115<sup>th</sup> Street, Delta, BC  
PID: 002-281-244  
Lot 50 Section 25 Township 4 New Westminster District Plan 39239
- (collectively, the “**Developer Lands**”);

- D. The Developer wishes to acquire an approximately 2,953.5 square metre portion of the Delta Lands shown outlined in bold on the sketch attached as Schedule A (the “**Acquisition Area**”) for consolidation with the Developer Lands and any portion of 115<sup>th</sup> Street that may be acquired by the Developer (the Acquisition Area as consolidated with the Developer Lands and any portion of 115<sup>th</sup> Street that may be acquired by the Developer, less any portion of the Developer Lands required for highway dedication, is the “**Consolidated Lot**”) in order to enable the Developer to construct two multi-storey residential buildings with a floor space ratio of not less than 2.0 and not more than 2.6 and 12 townhomes with a floor space ratio of not less than 1.0 and not more than 1.4 on the Consolidated Lot (the “**Development**”);
- E. In addition to the Acquisition Area, the Developer also wishes to acquire an easement over a portion of the Delta Lands for vehicular and pedestrian access, an easement under the Delta Lands for an underground parkade, a license to use the access lane on the Delta Lands during construction of the Development, and a license to use a portion of the Delta Lands for the placement of a sales centre in connection with the Development;
- F. Delta intends to offer the Developer the opportunity to construct a new two-storey arts centre building (the “**Arts Centre**”) on the Delta Lands; and
- G. The Developer has voluntarily offered and agreed to pay to Delta an amenity contribution in relation to the Development in the amount of \$1,050,000.00, payable by way of an irrevocable letter of credit (the “**LOC**”) in a form acceptable to Delta concurrently with adoption of the OCP amendment and rezoning bylaws required for the Development.

Delta and the Developer wish to enter into this non-binding Memorandum of Understanding (“**MOU**”) in order to set out their common understanding and general intentions regarding the proposed purchase and sale of the Acquisition Area and the construction of the Arts Centre and they intend as follows:

1. **Purchase Contract** – The parties will endeavor to negotiate terms of acquisition (including purchase price and “subject to” conditions) for the Acquisition Area that are satisfactory to both Delta and the Developer, and the parties will endeavor to enter into a contract for the purchase and sale of the Acquisition Area on or before adoption of the OCP amendment and rezoning bylaws required for the Development (the “**Purchase Contract**”).
  - 1.1 **Permitted Encumbrances** – Any notation or charges registered on title to the Delta Lands:
    - (a) as of the reference date of this MOU;
    - (b) as a condition of rezoning, OCP amendment, subdivision approval, or building permit; or
    - (c) contemplated by the Purchase Contract,

will be permitted encumbrances on title to the Acquisition Area under the Purchase Contract.
2. **Responsibilities** - The Developer and Delta shall each be responsible, at their respective expense, for each of the items assigned to them in Schedule B hereto, within the areas

identified in Schedule C hereto. In the event of a conflict between Schedule B and Schedule C, Schedule B shall prevail.

- 2.1 The existing electrical and telecommunication services for the Firehall shall not be disconnected or removed until such time as the replacement electrical and telecommunication services have been installed for North Delta Recreation Centre and are operating to Delta's satisfaction.
3. **Arts Centre Design and Cost** – Delta will prepare and deliver to the Developer final construction drawings and specifications for the Arts Centre (the "Drawings For Construction") and a Class A cost estimate for the Arts Centre (the "Construction Price") on or before June 1, 2017.
- 3.1 **Arts Centre Construction** – The Developer shall, within thirty (30) days after receipt of the Drawings For Construction and the Construction Price, notify Delta, in writing, whether it is prepared to construct the Arts Centre.
- 3.2 If the Developer elects to construct the Arts Centre, it shall enter into a Construction Contract within two (2) weeks after notifying Delta in accordance with Article 3.1. The Construction Contract shall provide for the construction of the new Arts Centre on the Delta Lands (the "Construction Contract"), including installation of all sanitary sewer, water, storm sewer, fibre-optic cable, telecommunication, gas, electricity and other utility services and associated works (collectively, the "Services") and connection of the Services to municipal or third party utility services, and shall include but not be limited to the following terms:
  - (a) the Developer will be obliged to:
    - (i) apply to the appropriate authority, within forty five (45) days after approval of the Drawings For Construction and Construction Price, for all permits or approvals necessary for the installation and connection of the Services, except those required from Delta;
    - (ii) commence construction of the Arts Centre within thirty (30) days of issuance of a building permit for the Development;
    - (iii) undertake construction of the Arts Centre in accordance with the Construction Drawings and Construction Price, the terms of the building permit issued by Delta and all applicable statutes, regulations, Codes and bylaws;
    - (iv) substantially complete construction of the Arts Centre by December 31, 2018;
  - (b) the Developer will be permitted to hire a contractor to carry out the construction of the Arts Centre;
  - (c) the Developer will be responsible for all cost overruns for the entire Arts Centre in excess of the Construction Price, unless otherwise approved in writing by Delta in advance;
  - (d) Delta will be obliged to:

- (i) obtain and issue the building permit for the Arts Centre not more than fourteen (14) days after completion of the sale of the Acquisition Area; and
  - (ii) pay the Construction Price, plus or minus the value of any changes approved in writing by the parties, to the Developer on a progress draw basis.
- (e) the Developer shall submit monthly invoices to Delta, specifying the value of the work completed in the previous month certified by a mutually accepted quantity surveyor. Delta or its project manager will review such invoices and will pay each invoice within twenty one (21) days of receipt, subject to applicable deficiency and builder's lien holdbacks. Initial progress draws will be satisfied by reducing the LOC by way of a letter from Delta to the Developer confirming the amount of such reduction. Once the LOC has been reduced to \$0.00, Delta will pay all approved invoices in cash or by way of cheque or bank draft made payable to the Developer, to a maximum of the Construction Price, plus or minus the value of any changes approved in writing by the parties; and
- (f) if the Developer fails to meet any of the deadlines or comply with any of the requirements specified in subsections 3.2(a)(i) to (iv) inclusive above (individually, a "Default"), Delta will be entitled, on thirty (30) days' notice setting forth the Default complained of, to cancel the Construction Contract and draw on the LOC and may, at its option, construct the Arts Centre, or the uncompleted balance thereof, on its own behalf. If the Developer remedies the Default within such notice period the notice of Default shall be of no further force or effect.
- 3.3 If the Developer elects not to construct the Arts Centre, Delta may, not less than fifteen days after delivering notice to the Developer, draw on the LOC, retain the proceeds thereof, and construct the Arts Centre on its own behalf.
4. **Additional Agreements** – In addition to the Purchase Contract, the parties will enter into the following agreements before adoption of the OCP amendment and rezoning bylaws required for the Development:
- (a) Lease-Back – Lease to the City of the Acquisition Area until such time as the Developer obtains a permit to demolish the Firehall, in exchange for consideration from the City in the amount of \$1.00;
  - (b) Access Easement – Easement in favour of the Consolidated Lot for ongoing and non-exclusive vehicular and pedestrian access over an approximately 619.1 sq. metre portion of the surface of the Delta Lands, in exchange for consideration in the amount of \$1.00;
  - (c) Parkade Easement – Easement in favour of the Consolidated Lot for the construction and ongoing use of an underground parking structure and garbage storage area under an approximately 1390.4 sq. metre portion of the Delta Lands, in exchange for consideration in an amount equal to 50% of the fee simple value of the easement area, which will be based on the per square foot value of the Acquisition Area;
  - (d) Construction License – License in favour of the Developer for non-exclusive use of the

access lane on the Delta Lands during construction of the Development, commencing on the closing date under the Purchase Contract and expiring on the earlier of completion of the Development and February 1, 2019, in exchange for consideration in the amount of \$1.00;

- (e) License for Sales Centre – License in favour of the Developer, if necessary, for placement of a sales centre within an approximate 1,500 square foot portion of the Delta Lands during pre-sales, commencing on the date of adoption of the OCP amendment and rezoning bylaws required for the Development and expiring on the earlier of substantial completion of the Development and March 31, 2019, in exchange for consideration in the amount of \$1.00;
- (f) Statutory Right-of-Way – One or more Statutory Rights-of-Way under section 218 of the *Land Title Act* (British Columbia) in favour of Delta over the Consolidated Lot for the Services for the Arts Centre and the replacement electrical and telecommunication services for the North Delta Recreation Centre, in exchange for consideration in the amount of \$1.00; and
- (g) Development Documents – Such other servicing agreements or development agreements as Delta may require regarding the provision of on-site and/or off-site services relating to the Development, in exchange for consideration in the amount of \$1.00.

5. **Fees and Charges** –Delta agrees to pay all building permit, demolition permit, and plumbing permit fees (including application and issuance fees) payable pursuant to Delta Building/Plumbing Bylaw No. 6060/2002, in connection with the construction of the Development, the demolition of the Firehall, and the construction of the Arts Centre, as well as all municipal utility connection charges. Delta will also agree to pay all development application fees (including fees associated with any public hearing) payable pursuant to Development Application Procedures Bylaw No. 4918/1992 in connection with the Arts Centre and the Development. Further, staff will recommend to Council that Delta waive all park dedications or cash-in-lieu requirements that may be imposed pursuant to section 510 of the Local Government Act.

6 **Utility Connections** – Delta will install water, storm and sanitary services to the 84th Avenue property line and the 115th Street property line of the Consolidated Lot at a point determined by Delta provided that the Developer shall pay for the water meter required for the Arts Centre.

6.1 **Traffic Light** – Delta will install a traffic light at the intersection of 84<sup>th</sup> Avenue and the Access Easement.

6.2 **Other Fees and Charges** - For certainty, Delta will not waive or pay any other fees, charges, or taxes, including municipal or regional development cost charges, property taxes or servicing costs associated with the Development.

7. **MOU & Purchase Contract Costs** – Delta and the Developer will each pay their respective costs, including legal fees and disbursements, associated with the development and/or implementation of this MOU, the Purchase Contract, and all additional agreements referred

to herein. Delta will pay for surveys or plans required for the subdivision of the Acquisition Area from the Delta Lands. The Developer will pay for all surveys or plans required in connection with the Development and all other matters referred to in this MOU.

- 8. **Schedules** –Schedules A to C attached to this Agreement shall form an integral part of this Agreement.
- 9. **Amendments** – Delta and the Developer acknowledge and agree that changes to this MOU may be necessary as they proceed with the transactions contemplated by this MOU, including the negotiation of the Purchase Contract and the various associated agreements contemplated herein.
- 10. **Non-Binding** – For clarity, while this MOU sets out the mutual understanding and intentions of Delta and the Developer, this MOU is not legally binding and does not give rise to any legal obligations between Delta and the Developer. For clarity, nothing herein, or in any of the Agreements contemplated herein, shall obligate Delta or its Council to adopt any bylaws required in connection with the Development.

**H. SHARMA & ASSOCIATES INC.** by its authorized signatory:

\_\_\_\_\_  
Hari Pal Sharma

\_\_\_\_\_  
Date

**THE CORPORATION OF DELTA** by its authorized signatories:

\_\_\_\_\_  
Mayor:

\_\_\_\_\_  
Chief Administrative Officer:

\_\_\_\_\_  
Date

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SCHEDULE A

SKETCH PLAN OF LOT 1 EXCEPT PART SUBDIVIDED BY PLAN 39239 (PLAN 15303) AND SOUTH HALF LOT 2 EXCEPT PART SHOWN ON PLAN WITH BYLAW FILED 35637 (PLAN 5159), ALL OF SECTION 25 TOWNSHIP 4 NEW WESTMINSTER DISTRICT

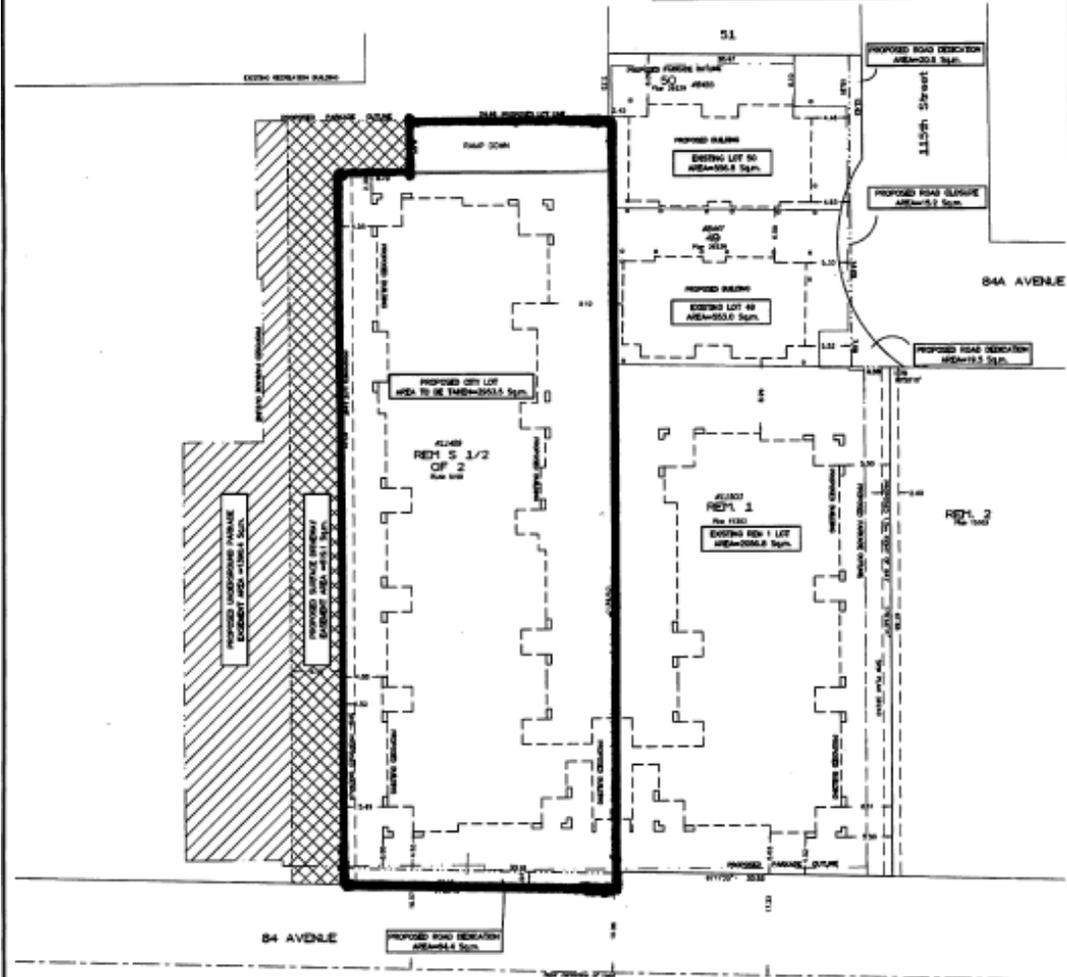
DRAFT - JAN 8, 2017

8445 225th St - Lot 30 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4206 Sqm
8447 225th St - Lot 48 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8449 225th St - Lot 49 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8451 225th St - Lot 50 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8453 225th St - Lot 51 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8455 225th St - Lot 52 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8457 225th St - Lot 53 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8459 225th St - Lot 54 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8461 225th St - Lot 55 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8463 225th St - Lot 56 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8465 225th St - Lot 57 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8467 225th St - Lot 58 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8469 225th St - Lot 59 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8471 225th St - Lot 60 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8473 225th St - Lot 61 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8475 225th St - Lot 62 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8477 225th St - Lot 63 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8479 225th St - Lot 64 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8481 225th St - Lot 65 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8483 225th St - Lot 66 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8485 225th St - Lot 67 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8487 225th St - Lot 68 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8489 225th St - Lot 69 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8491 225th St - Lot 70 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8493 225th St - Lot 71 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8495 225th St - Lot 72 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8497 225th St - Lot 73 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8499 225th St - Lot 74 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8501 225th St - Lot 75 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8503 225th St - Lot 76 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8505 225th St - Lot 77 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8507 225th St - Lot 78 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8509 225th St - Lot 79 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8511 225th St - Lot 80 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8513 225th St - Lot 81 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8515 225th St - Lot 82 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8517 225th St - Lot 83 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8519 225th St - Lot 84 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8521 225th St - Lot 85 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8523 225th St - Lot 86 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8525 225th St - Lot 87 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8527 225th St - Lot 88 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8529 225th St - Lot 89 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8531 225th St - Lot 90 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8533 225th St - Lot 91 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8535 225th St - Lot 92 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8537 225th St - Lot 93 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8539 225th St - Lot 94 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8541 225th St - Lot 95 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8543 225th St - Lot 96 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8545 225th St - Lot 97 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8547 225th St - Lot 98 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8549 225th St - Lot 99 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm
8551 225th St - Lot 100 Plan 39239	AREA OF ROAD DEDICATION ALONG 115TH ST=4187 Sqm



DATE: 01/08/2017  
BY: [Signature]  
FOR: [Signature]

AREA TABLE



APPROXIMATE SURVEY AREA IN 1:250  
NOT TO SCALE  
This sketch plan is based on information provided by the applicant and is not a guarantee of accuracy. The plan is subject to change without notice. The plan is not to be used for any other purpose than that for which it was prepared. The plan is not to be used for any other purpose than that for which it was prepared. The plan is not to be used for any other purpose than that for which it was prepared.

Lot dimensions are shown from Plan 39239.  
If the plan is used in any way, the user must accept full responsibility for any errors or omissions that may occur.

The plan is prepared for information purposes only. It is not intended to be used for any other purpose. The plan is not to be used for any other purpose than that for which it was prepared. The plan is not to be used for any other purpose than that for which it was prepared. The plan is not to be used for any other purpose than that for which it was prepared.



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**SCHEDULE B**

North Delta Gardens and Firehall Centre for the Arts

<b>1. Firehall, Arts Centre Building and Other Improvements</b>	<b>Developer's Responsibility</b>	<b>Delta's Responsibility</b>
Demolition of the Firehall and removal of debris, including permit	√	
Demolition permit fee for the Firehall		√
Building permit and fee for the Arts Centre		√
Removal and capping of services of Firehall	√	
Relocation of electrical and telecommunication services for North Delta Recreation Centre located within the Acquisition Area	√	
New electrical service to Arts Centre from newly relocated hydro service		√
Geotechnical Investigation		√
Consultant Services (Architectural, Civil, Structural, Mechanical, Electrical)		√
New municipal service connections for the Arts Centre		√
Construction of the building		√
Amenity Contribution of \$1,050,000 toward the construction of the building - 2100 sq. ft. mezzanine floor (23%)	√	
Furnishings and Fixtures		√
Wayfinding		√
Construction of new 9.0 m drive aisle, 2.0 m sidewalk and lighting (private road) from 84 avenue to tie in with road behind North Delta Recreation Centre	√	
Extension of parking lot west of private road, complete with lighting	√	
Landscaping adjustments within the Art Centre island		√
Relocation of garbage enclosure	√	
Parking lot landscaping and irrigation adjustments	√	

<b>2. Delta Gardens On-Site Development</b>	<b>Developer's Responsibility</b>	<b>Delta's Responsibility</b>
Building permit fee and Development Permit fee for the Development		√
Obtain building permit for Development	√	
Private walkway along east property line, 1.5 m width and decorative Nordel Social Heart pedestrian lights	√	
Implement the accepted landscape plan	√	
Address the existing storm sewer that is located in the right-of-way	√	

**SCHEDULE B (Cont'd)**

<b>3. Off Site Works ( 115 Street and 84 Avenue)</b>	<b>Developer's Responsibility</b>	<b>Delta's Responsibility</b>
All works required by Bylaw No. 7162 associated with frontage improvements along 115 Street	√	
Cap existing services to 8455 & 8447 115 Street	√	
Remove existing driveway crossing at 11503 84 Ave and replace with curb and gutter	√	
Remove and relocate the access to North Delta Recreation Centre from 84 Avenue	√	
Cap existing services to 11503- 84 Avenue	√	
Water service to development		√
Water meter for development	√	
Storm and sanitary service to development		√
Third party services to development	√	
Infrastructure Improvements (road, watermain, storm and sanitary sewer) on 84 Avenue from 112 Street to 116 Street except as provided above - scope defined in Delta's Capital Program		√



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