



**Action No: H-110471
Vancouver Registry**

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**Bancorp Balanced Mortgage Fund Ltd.
Bancorp Financial Services Inc.**

PETITIONERS

AND:

**618061 B.C. Ltd.
Victoria Sawyer
Teodarus J. Klumper, also known as Georg Klumper
Kiweol Kim
085573 B.C. Ltd.
The Crown in Right of Canada**

FIRST REPORT OF RECEIVER

Boale, Wood & Company Ltd.

November 9, 2011

First Report

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I. Appointment

Boale, Wood & Company Ltd. was appointed Receiver-Manager (“Receiver”), without security, of 618061 B.C. Ltd. pursuant to an Order of the Supreme Court of British Columbia dated May 18, 2011. A copy of the Court Order is attached as **Appendix A**.

The powers granted to the Receiver were for the limited purpose of preparing an assessment report to the Court in relation to the potential costs and benefits of completing the subdivision of the property.

II. Background

618061 B.C. Ltd. (the "Company") is a property development company that owns a residential development property located in Anmore, B.C. (the "Property").

In 2006, Phase I of a two-phase subdivision was approved pursuant to a development agreement with the Village of Anmore dated March 28, 2006 (the "**Development Agreement**"). A copy of the Development Agreement is attached as **Appendix B** to this report.

Phase I was comprised of 17 lots. Phase 1 of the subdivision was approved by the Village of Anmore and the Company has since completed the required road works and services with the exception of a final lift of pavement and community trail/amenity. Only four of those 17 lots in Phase I remain unsold.

The Phase II subdivision plans are essentially ready for submission to the Village of Anmore for approval. The Phase II subdivision consists of 9 lots that are comparable in size and value to the Phase I lots.

The sale of lots in Phase I have been significantly slower than initially projected resulting in the Company being unable to comply with the terms of its loan agreement with Bancorp. In April 2011 Bancorp made demand on its loan and shortly thereafter applied to the Supreme Court of British Columbia for an Order appointing Boale Wood & Company Ltd. as Receiver for the limited purpose of preparing an assessment report to the Court in relation to the potential costs and benefits of completing the subdivision of the property.

Pursuant to an Order pronounced June 22, 2011, Bancorp Financial Services Inc. and Bancorp Balanced Mortgage Fund Ltd. (collectively, "**Bancorp**") was granted conduct of sale of the subject properties. A copy of the Order relating to conduct of sale is attached as **Appendix C** to this report. Bancorp has accepted an offer for one of the remaining four lots in Phase I. The purchaser must remove subjects by November 11, 2011. Upon subject removal, Bancorp will seek Court approval of the sale.

III. Activities of Receiver since the Date of Appointment

Since the date of the appointment, the activities of the Receiver can be summarized as following:

- Retained the services of Slade Dyer, a land development consultant, to assist in identifying and quantifying the work required to complete Phase I and make application to the Village of Anmore for approval of Phase II;
- Meeting with Georg Klumper and Slade Dyer at the Property to generally discuss the status of the Phase I and Phase II subdivisions;
- Meeting with Howard Carley of the Village of Anmore and key consultants retained by the Village of Anmore to review and discuss the outstanding issues in Phase I and determining the requirements and timing for application for approval of Phase II;
- Correspondence and discussions with representatives of the Village of Anmore regarding the status of the Latecomer fees, outstanding property taxes and security/maintenance deposits relating to Phase I;
- Correspondence and discussions with Georg Klumper and Slade Dyer regarding the estimated costs of completing the Phase I outstanding items and applying for approval of Phase II including Latecomer fees;
- Correspondence and discussions with parties interested in purchasing lots in Phase I and an en bloc purchase of Phase II;
- Preparation of budget including the expected costs of completing outstanding items in Phase I and costs of the Phase II subdivision including latecomer fees;
- Review of Appraisal prepared by Grover, Elliott & Company Ltd. and dated May 13, 2011 and discussion with Eric Gan, a realtor retained by the Company to market the lots in Phase I, regarding the current market conditions in Anmore;
- Assisting the Company in completing certain time sensitive outstanding items in Phase I including the culvert construction, completion of plans and drawings required to be submitted to the Village of Anmore, trail design and security fencing; and
- Correspondence and discussions with representatives of Bancorp and Lawson Lundell regarding the activities of the Receiver.

IV. Property Appraisal

Prior to our appointment as Receiver, the Company retained Grover, Elliott & Company Ltd. (“**Grover**”) to prepare an appraisal of the Phase I and II lots. We have reviewed that appraisal and it indicates that:

- the appraised value of the lots in Phase I and II range between \$520,000 and \$560,000.
- The total appraised value of all the lots is \$7,080,000.

Please note that the appraisal does not include the costs of completing the Phase I and II subdivisions which are commented on later in this report.

V. Status of Phase I and II

Phase I

The work required to complete Phase I of the subdivision is limited to the final lift of pavement, completion of a trail or other recreational amenity and a few other minor items. Due to weather conditions the final lift of pavement and trail or other recreational amenity cannot be completed until next spring.

The Receiver's estimate of costs to complete the outstanding items in Phase I can be summarized as follows:

Trail/recreational amenity	\$ 5,000
Asphalt Overlay	50,000
Engineering Fees	10,000
Consulting Fees	10,000
Receiver's fees	5,000
Contingency (10%)	<u>8,000</u>
	<u>\$88,000</u>

Once these items are completed, the Village of Anmore should release the security deposits held deficiencies in the amount of \$145,000. The Village of Anmore also holds a maintenance bond in the amount of \$75,000 that will likely get released in a year's time.

There is currently an accepted offer on one of the lots in Phase I that requires the purchaser to remove subjects by November 11, 2011.

The remaining 3 lots are listed for sale on the Multiple Listing Service with Eric Gan of Keller Williams Elite Realty. The lots are listed at between \$500,000 and \$600,000. The list prices are consistent with an Appraisal of the lots in Phase I.

Phase II

The Phase II subdivision application should be ready to submit within the next week. Representatives of the Village of Anmore have indicated that the preliminary layout approval will likely take 2 months while final approval of the subdivision could take up to 6 months. Approval of Phase II will not be given until all outstanding items in Phase I are complete.

As part of the subdivision approval the Company or any purchaser of Phase II will be required to pay the latecomer fees for the road works and services for Phase II completed by Anmore Woods Ltd., another developer in Anmore. A copy of the Latecomer Agreement is attached as **Appendix D** to this report.

Anmore Woods Ltd. owns a development property adjacent to the Property and required the road through Phase II to be completed to provide access to its development property. This initial estimate of costs for the road works and services was approximately \$700,000. This cost estimate included construction of a lock block wall for \$112,500 that was later determined to not be required.

The Receiver has recently been advised by a representative of Anmore Woods Ltd. that the actual costs incurred to complete the road works and services for Phase II were approximately \$1,100,000, almost double the estimated cost. According to the representative, additional costs were incurred for blasting that was not provided for in the initial estimate. The representative also mentioned that a gas line cross is required that could cost an additional \$200,000.

Given the significant difference between the estimate and actual costs, the Receiver has requested details and documentation to support the actual costs incurred. As of the date of this report the Receiver has not received any information or documentation.

The Receiver's estimate of costs to submit and monitor the Phase II subdivision application can be summarized as follows:

Application Fee	\$ 2,000
Consulting Fees	10,000
Receiver's Fees	<u>10,000</u>
	<u>\$22,000</u>

VI. Conclusions and Planned Activities

The Receiver will not be in a position to report to the Court on the potential costs and benefits of completing the subdivision of the property until it receives the following:

- Documents from Anmore Woods Ltd. with respect to the Latecomers fees; and
- The preliminary layout approval for Phase II from the Village of Anmore that will provide details of the requirements for approval of Phase II.

As mentioned earlier in our report, the Phase II subdivision application will be ready to submit within the next week. Once the application is submitted the processing of the preliminary layout approval will need to be monitored. To ensure there are no further delays in processing the Phase II subdivision, Receiver believes it is critical that the outstanding items in Phase I be completed as soon as possible.

To date the Receiver's fees are approximately \$25,000. To fund the Receiver's fees to date, the costs of completing the Phase I outstanding items and costs of the Phase II subdivision application and monitoring thereof the Receiver requires borrowings of \$150,000.

Once the Phase II preliminary layout approval is received, the Receiver will be in a position to report to the Court on the potential costs and benefits of completing the subdivision of the property.

DATED At the City of Vancouver, British Columbia, this 9th day of November, 2011

Yours very truly,

Boale, Wood and Company Ltd.

Receiver of the Property of
618061 B.C. Ltd.

Per: John McEown, CA-CIRP

APPENDIX A

Court Order Appointing Receiver



No. H110471
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**BANCORP BALANCED MORTGAGE FUND LTD.
BANCORP FINANCIAL SERVICES INC.**

PETITIONERS

AND:

**618061 B.C. LTD.
VICTORIA SAWYER
TEODARUS J. KLUMPER, also known as GEORG KLUMPER
KIWEOL KIM
0855573 B.C. LTD.
THE CROWN IN RIGHT OF CANADA**

RESPONDENTS

ORDER

BEFORE MASTER SCARTH

) **WEDNESDAY, THE 18th DAY**
)
) **OF MAY, 2011**

THE APPLICATION of the Petitioners for an Order pursuant to s. 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing Boale, Wood & Company Ltd. as Receiver-Manager (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of 618061 B.C. Ltd. (the "Debtor") coming on for hearing this day at the Courthouse, at 800 Smith Street, Vancouver B.C.

AND ON READING the Notice of Application filed April 29, 2011, the Affidavit #1 of Douglas Bentley sworn March 30, 2011 and the Affidavit #1 of Linda Alexander, sworn April 26, 2011 and filed herein, **AND ON HEARING** William L. Roberts, Counsel for the Petitioner, and R. Keith Oliver, counsel for the Respondents, Victoria Sawyer, Teodarus J. Klumper, also known as Georg Klumper, Kiweol Kim and 0855573 B.C. Ltd., and no-one appearing on behalf of the remaining Respondent although duly served, and on reading the consent of Boale, Wood & Company Ltd. to act as the Receiver.

APPOINTMENT

1. Pursuant to s. 47(1) of the BIA and/or Section 39 of the *Law and Equity Act*, is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, and the following real property holdings:
 - A. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-048
LOT 7 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT PLAN BCP22988;
 - B. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-081
LOT 11 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT PLAN BCP22988;
 - C. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-102
LOT 13 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT PLAN BCP22988;
 - D. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-374
STRATA LOT 1 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT STRATA PLAN BCS1797;
 - E. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-960
STRATA LOT 6 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT STRATA PLAN BCS1798;

("Lot 6")

(the "Property").

RECEIVER'S POWERS

2. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, changing of locks and security codes, relocating of Property to safeguard it, engaging of independent security personnel,

the taking of physical inventories and placement of such insurance coverage as may be necessary or desirable;

- (c) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (d) undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (e) report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information with such Persons, subject to such terms as to confidentiality as the Receiver deems advisable;
- (f) register a copy of this Order and any other Orders in respect of the Property against title to any of the Property; and
- (g) take any steps reasonably incidental to the exercise of these powers,

for the limited purpose of preparing an assessment report to the Court in relation to the potential costs and benefits of completing the subdivision of the Property and undertaking further site development of the Property (the "Assessment"), and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

- 3. Upon completion of the Assessment, the Petitioners are at liberty to make further order to this Court to extend and increase the powers of the Receiver accordingly.
- 4. Despite the limited powers of the Receiver for the purpose of this Order, until further order of the court, the Debtor is enjoined and restrained from entering into any agreement for sale of any portion of the Property without the written consent of the Receiver.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

- 5. (i) the Debtor, (ii) all of the Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to such Property to the Receiver, and shall deliver all such Property (excluding Property subject to Heas the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.
- 6. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers,

records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosures.

7. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

8. No proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph.

NO EXERCISE OF RIGHTS OF REMEDIES

10. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the

written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an "eligible financial contract" (as defined in Section 65.1 of the BIA) with the Debtor from terminating such contract or exercising any rights of set-off, in accordance with its terms.

CONTINUATION OF SERVICES

12. All Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services of any kind to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale or disposition of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post-Receiverhip Accounts") and the monies standing to the credit of Post-Receiverhip Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

14. Subject to the right of employees to terminate their employment notwithstanding paragraph 10, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall be liable for any employee-related liabilities, including

wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire.

15. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales or dispositions of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete the Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Environmental Management Act*, R.S.B.C. 1996, c. 118 and the *Fish Protection Act*, S.B.C. 1997, c. 21 and regulations thereunder (collectively "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be construed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in Possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. The Receiver shall incur no personal liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, and the fees associated with investigation and preparing the Assessment shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").
19. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. The Receiver is at liberty to apply to borrow funds as it may consider necessary or desirable to achieve the objects of this Order, or any variation and modification of this Order.

GENERAL

22. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
23. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
24. This Court requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order.
25. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and all such courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
26. The Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Plaintiff's security, or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the

Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

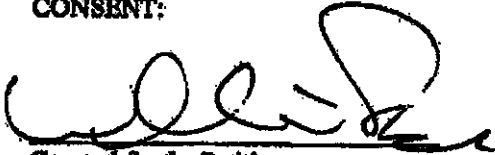
27. Any interested party may apply to this Court to vary or amend this Order on not less than two (2) clear business days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

BY THE COURT

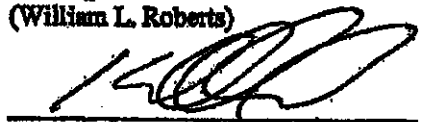
Digitally signed by
Berg, Mellani

REGISTRAR

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Counsel for the Petitioners,
Bancorp Balanced Mortgage Fund Ltd. and
Bancorp Financial Services Inc.
(William L. Roberts)



Counsel for the Respondents,
Victoria Sawyer, Teodarus J. Klumper,
also known as Georg Klumper,
Kiweol Kim and 0855573 B.C. Ltd.
(R. Keith Oliver)

No. H110471
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANCORP BALANCED MORTGAGE FUND LTD.
BANCORP FINANCIAL SERVICES INC.

PETITIONERS

AND:

618061 B.C. LTD.
AND OTHERS

RESPONDENTS

ORDER

WLR/KAP/19028.106800



Barristers and Solicitors
1600 Cathedral Place

925 West Georgia Street
Vancouver, British Columbia V6C 3L2
Phone: (604) 685-3456
Attention: William L. Roberts

APPENDIX B

Development Agreement

THIS AGREEMENT made this 28th day of *MARCH*, 2006

BETWEEN: **THE VILLAGE OF ANMORE**, a municipality incorporated under the Municipal Act of the Province of British Columbia, and having its Municipal Offices at 2697 Sunnyside Road, Anmore, B.C. V3H 3C8
(Hereinafter called the Municipality)

OF THE FIRST PART

AND: **618061 B.C. LTD.**, of 202- 2963 Glen Drive, Coquitlam, B.C., V3B 2P7
(Hereinafter called the Developer)

OF THE SECOND PART

WHEREAS:

- A. The Developer is the registered owner of lands within the Village of Anmore, in the Province of British Columbia, more particularly known and described as follows:
Sec 19, Twp 39, NWD, Frac, LS7
(Hereinafter called the Lands)
- B. The Developer desires to subdivide the Lands.
- C. The Developer has provided works and services (herein called the Works) in accordance with the standards prescribed in the Works and Services Bylaw of the Municipality on the Lands. The list of drawings that describe the Works are appended in Appendix C.
- D. The Approving Officer of the Municipality has agreed to approve the subdivision of the Lands subject to the terms and conditions contained in this Agreement and the posting with the Municipality of the Maintenance Security Deposit described herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the promises, covenants and agreements hereinafter set forth, the parties hereto covenant, agree, represent and promise as follows:

**SECURITY
DEPOSIT
FOR
DEFICIENCIES**

- 1. As security for the due performance of all of the covenants and promises contained in this Agreement the Developer has forthwith deposited with the Municipality a security deposit in the amount of **\$145,600.00** as determined by the cost estimate of the Engineer.

in the form of cash or a Letter of Credit acceptable to the Municipality (herein called the Security Deposit) to cover the list of deficiencies as outlined in Appendix A.

COMPLETION OF WORK

- 2. The Developer shall complete the construction of the Works & Services, specified in Appendix A to the satisfaction of the Municipality, by 1 July 2006, except for:
 - a) the final road surface overlay which shall not be placed until houses have been completed on at least 80 % of the lots; or for 2 years from date of completion of the base course, whichever is earlier; and
 - b) the Bedwell Bay culvert repairs which will need to be completed during the 2006 DFO window and completed by 15 September 2006.

FORFEIT OF SECURITY DEPOSIT

- 3. In the event that the Developer fails to correct the deficiencies by 1 July 2006, the said Security Deposit will be forfeited to the Municipality so that the deficiencies can be corrected if so required by the Municipality.

NOT INCLUDING THE SECURITY DEPOSIT
RE

RELEASE OF SECURITY DEPOSIT

- 4. When the Municipality's Engineer is of the opinion that the deficiencies have been adequately corrected and the Developer's covenants performed in compliance with this Agreement, and if there is no litigation pending by any third party against the Municipality as a result of, or arising from, the construction of the Works & Services, the Security Deposit shall be returned to the Developer.

MAINTENANCE PERIOD AND RESPONSIBILITY

- 5. The Developer covenants and agrees to maintain every part of the Works & Services in perfect order and in complete repair for the period 1 April 2006 to 31 March 2007 in accordance with the requirements of the Works & Services Bylaw.

Should the Developer, for any reason, fail to maintain when ordered, then the Municipality's Agent, at his option, after giving the Developer seven days written notice (emergencies excepted), may do so, and the whole costs, charges and expenses so incurred by the Municipality will be payable by the Developer, as provided for herein. The decision of the Municipality's Agent will be final with respect to the necessity for repairs, or the adequacy of any work done.

Once any water mains covered by this Agreement are connected to the Municipal water system, only Municipal crews or contractors under the direct supervision of the Municipality may undertake work on such water mains. As such, Municipal crews or

contractors retained by the Municipality will correct any defects, imperfections, acts of vandalism, settlements and/or rechlorination and flushing on such watermains which is deemed by the Municipality's Agent to be necessary during the one year period from the date shown on the Certificate of Substantial Completion and the whole of such costs, charges and expenses so incurred by the Municipality in undertaking such work including but not limited to contractor costs will be payable by the Developer as provided for herein. Any rechlorination and flushing work on any watermain will be considered to be "emergency" work and as such the Developer may not receive prior notice that such work is being undertaken by the Municipality.

**CERTIFICATE
OF ACCEPTANCE**

6. The Municipality covenants and agrees that upon satisfactory completion by the Developer of all of the covenants and conditions in this Agreement, including the maintenance of the Works & Services in complete repair for a period of one (1) year, to provide the Developer with a Certificate of Acceptance of the Works & Services, signed by the Municipality's Agent. Notice of acceptance of the Works & Services will be issued by the Municipality's Agent when all deficiencies have been corrected, as-built drawings and service record cards received, and the maintenance period outlined herein has expired. All such Works & Services remain at the risk of the Developer until the Certificate of Acceptance for the Works & Services has been issued.

**DEVELOPER
INDEMNIFIES
MUNICIPALITY**

7. The Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:
- (a) all actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought by reason of the construction, installation, maintenance or repair of the Works & Services;
 - (b) all expenses and costs which may be incurred by reason of the construction, installation, maintenance or repair of the Works & Services resulting in damage to any property owned in whole or in part by the Municipality for which the Municipality by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, install, maintain or repair;
 - (c) all expenses and costs which may be incurred by reason of liens for non-payment of labour or materials, Workmen's Compensation, Unemployment Insurance, Federal or

Provincial tax, check-off or encroachments owing to mistakes in survey; and

- (d) all expenses and costs which may be incurred by the Municipality as a result of faulty workmanship and defective material in any of the Works & Services installed by the Developer.

The above clauses shall not be construed as to extinguish any rights that the Municipality would have were it not for the inclusion of Clause 7 in this Agreement.

- MAINTENANCE SECURITY DEPOSIT** 8. As security for the due performance of all of the covenants and promises contained in this Agreement the Developer shall forthwith deposited with the Municipality a security deposit in the amount of \$127,500.00, in accordance with the cost estimate attached hereto as Schedule B and the Works Package attached hereto as Schedule C, in the form of cash or a Letter of Credit acceptable to the Municipality (herein called the Maintenance Security Deposit).
- RETURN OF MAINTENANCE SECURITY DEPOSIT** 9. If the Municipality's Agent is satisfied that the Developer has complied with the covenants contained in this agreement and if there is no litigation pending or threatened by any third party against the Municipality as a result of, or arising from, the construction of the Works & Services, the Municipality's Agent be authorized to return the Maintenance Security Deposit to the Developer and thereafter the Developer's responsibility for the Works & Services shall cease.
- DECOMMISSIONING OF PRIVATE WATER SYSTEM** 10. In accordance with Development Variance Permit No. 24/03, within 60 days of the community water system being available for connection, the Developer shall decommission the private wells that serve the subdivision on an interim basis and connect the subdivision to the community water system.
- COMPLIANCE WITH BYLAWS** 11. Subject to this Agreement, the Works & Services herein shall comply with all of the Bylaws of the Village of Anmore.
- NO WAIVER** 12. The Developer covenants and agrees that nothing contained or implied herein shall prejudice or affect the rights and powers of the Municipality in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the said Lands as if the Agreement had not been executed and delivered by the Developer.

ADMINISTRATION FEE

13. The Owner covenants and agrees to pay to the Municipality a non-refundable fee to recover the Municipality's cost to administer and process this Agreement. This fee will be payable prior to the final approval of the Plan of Subdivision.

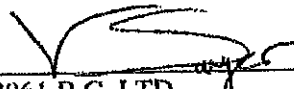
WHENEVER the word "will" is used in this Agreement it will be construed as imperative (mandatory).

WHENEVER the singular or the masculine is used in the Agreement it will be construed as meaning the plural or the feminine or body corporate or politic where the context or the parties hereto so require.


THIS CONTRACT shall ensure to the benefit of and be binding upon the parties hereto, their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first above written.

SIGNED, SEALED AND DELIVERED



618061 B.C. LTD.



WITNESS

SIGNED, SEALED AND DELIVERED

The Corporate Seal of the Village of Anmore was hereunto affixed in the presence of:



CHIEF ADMINISTRATIVE OFFICER



WITNESS

APPENDIX C

Court Order for Conduct of Sale



NO. H110471
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**BANCORP BALANCED MORTGAGE FUND LTD.
BANCORP FINANCIAL SERVICES INC.**

PETITIONERS

AND:

**618061 B.C. LTD.
VICTORIA SAWYER
TEODARUS J. KLUMPER also known as GEORG KLUMPER
KIWEOL KIM
0855573 B.C. LTD.
THE CROWN IN RIGHT OF BRITISH COLUMBIA**

RESPONDENTS

**ORDER MADE AFTER APPLICATION
FOR CONDUCT OF SALE TO PETITIONERS**

**BEFORE MASTER SCARTH) WEDNESDAY THE 22ND
)
) DAY OF JUNE, 2011**

THE APPLICATION of the Petitioners coming on for hearing this day at Vancouver, B.C.; AND UPON HEARING Kimberley A. Robertson, Counsel for the Petitioners, and no-one else appearing on behalf of the Respondents, although given due notice of this application in accordance with the Supreme Court Civil Rules

THIS COURT ORDERS that:

- 1. The lands and premises, being all and singular that certain parcel or tract of lands and premises situate, lying and being in the Province of British Columbia, and being more particularly known and described as:**

- A. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-048
LOT 7 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT PLAN BCP22988;
- B. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-081
LOT 11 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT PLAN BCP22988;
- C. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-102
LOT 13 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT PLAN BCP22988;
- D. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-374
STRATA LOT 1 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT STRATA PLAN BCS1797;
- E. VILLAGE OF ANMORE
PARCEL IDENTIFIER: 026-652-960
STRATA LOT 6 SECTION 19 TOWNSHIP 39
NEW WESTMINSTER DISTRICT STRATA PLAN BCS1798;

(the "618061 Lands");

charged by the Petitioners' mortgage herein, be offered for sale immediately by private sale, free and clear of all encumbrances except the reservations and conditions in the original grant thereof from the Crown,

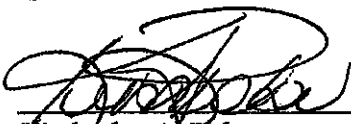
2. The Petitioners have exclusive conduct of the said sale and are at liberty to list the 618061 Lands for sale until such further order of the court, and to do all things incidental thereto, including to list the same with one or more duly licensed real estate agents or firms, to post signs on the 618061 Lands indicating that the 618061 Lands are offered for sale, to accept any offer to purchase, subject to the approval of this Honourable Court and to pay such real estate agent or firm who may arrange a sale of the 618061 Lands on this Honourable Court's approval of said sale of the 618061 Lands, earned commission based on the gross selling price, such commission to be at a rate not exceeding seven percent (7%) on the first \$100,000.00 of the gross selling price and 2.5% on the balance of the gross selling price;

3. Any person or persons in possession of the 618061 Lands, do permit, on reasonable notice, any duly authorized agent on behalf of the Petitioners, to post signs on the 618061 Lands indicating that the 618061 Lands are for sale, to inspect or appraise the 618061 Lands and the interior of the 618061 Lands and to show the 618061 Lands and the interior of the 618061 Lands, to any prospective purchaser or purchasers, between the hours of 9:00 a.m. and 8:00 p.m. on any day of the week;

4. Any sale shall be subject to the approval of this Honourable Court, unless agreed to by all parties.

5. The Petitioners are entitled to its costs of this application at Scale A.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Kimberley A. Robertson
COUNSEL FOR THE PETITIONERS

BY THE COURT

Digitally signed by
Berg, Mellani

REGISTRAR

NO. H110471
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANCORP BALANCED MORTGAGE FUND LTD.
BANCORP FINANCIAL SERVICES INC

PETITIONERS

AND:

618061 B.C. LTD. and others

RESPONDENTS

ORDER FOR CONDUCT OF SALE



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Phone: (604) 685-3456
Attention: William L. Roberts

WLR/lea

APPENDIX D

Latecomer Agreement

LATECOMER AGREEMENT

THIS AGREEMENT made this 17 day of April, 2007:

BETWEEN:

THE VILLAGE OF ANMORE, a Village Municipality incorporated pursuant to the Community Charter of the Province of British Columbia, and having its Municipal Offices at 2697 Sunnyside Road, Anmore, British Columbia, V3H 3C8

(the "Village")

AND:

ANMORE WOODS LTD. *DR*
~~710-2756 Lougheed Highway~~ 211-3030 Lincoln Ave
~~Port Coquitlam, B.C.~~ Coquitlam, BC
~~V3B 5Y9~~ V6B 6B4

(the "Developer")

WHEREAS:

A. The *Developer* is an owner of lands and premises within the *Municipality*, in the Province of British Columbia, more particularly known and described as follows (legal description):

Lot 8, Section 18, Township 39, New Westminster District, Plan 13511

(the "*Developer's Lands*")

B. The *Developer* proposes to *subdivide* the *Developer's Lands* or develop upon the *Developer's Lands*.

C. The *Developer* proposes to construct and install works and services described as an extension of Crystal Creek Drive and shown on Exhibit "A" of this Agreement (the "*Extension*") which will form part of a road system owned and maintained by the *Village*.

This is Exhibit "C" referred to in the Affidavit of Darren Smurthwaite Made before me on May 17, 2007 (date)


A Commissioner for taking Affidavits for British Columbia

- D. The *Village* has required the *Developer* to install or provide excess or extended services on or through lands which are not a part of the *Developer's Lands* but which can directly access or connect to or use the *Extension*.
- E. As a concession and to benefit the owner of the *Benefiting Lands*, the *Village* earlier agreed to allow the said owner to dedicate but not construct the *Extension* and therefore the *Village*, has determined that 100% of the costs of the said *Extension* are an excess or extended service that benefits the owner of the *Benefiting Lands (Latecomer)*;
- F. The *Village* and the *Developer* wish to enter into an agreement which will enable the *Developer* to recover the costs of providing the excess or extended service.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the promises, covenants and agreements hereinafter set forth, the parties hereto covenant, agree, represent and promise as follows:

- 1. The details of the *Extension*, the *Developer's Lands* and the *Benefiting Lands* are labeled and shown as Exhibit "A" which forms part of this Agreement.
- 2. The *Benefiting Lands*, other than the *Developer's Lands* are listed by legal description attached hereto as Exhibit "B".
- 3. Within the *Benefiting Lands* described in Exhibit "B", the total estimated number of lots to be created or *potential service connections* is 9 lots.
- 4. The *Latecomer Charge* is a connection charge per service connection and shall be calculated as follows:

Latecomer Charge equals the total cost of the *Extension* divided by the total number of *potential service connections*
- 5. In consideration of the satisfactory completion of the *Extension* by the *Developer*, without incurring any cost to the *Village*, the *Village* agrees to collect from the *Latecomer* who has not contributed to the cost of construction of the *Extension* but subsequently connect to the *Extension*, the entire cost of the *Extension* based upon the *Latecomer Charge*.
- 6. An interest rate of 0% per annum shall apply to the share of the cost from the date of the completion of the *Extension*. The *Developer* agrees to waive any right to claim interest on the *Latecomer Charge*.

7. For the purposes of the above clauses, the cost of the *Extension* and the actual *Latecomer Charge* per *service connection* shall be recorded as specified below:

Estimated Cost of the *Extension*: \$660,000 plus GST as per Exhibit "B"
Total Number of Estimated *Service Connections*: 9
Latecomer Charge: \$77733.33

8. After completion of the construction and acceptance in accordance with Exhibit "C", the *Latecomer Charge* shall be varied to reflect the actual costs of the *Extension*.

9. The *Village* shall collect the *Latecomer Charge* at the time the *Latecomer* applies for a connection to the *Extension* for the duration of this Agreement.

10. For the purposes of the preceding section, an application for a connection shall include a development approval in the form of subdivision, under the Land Title Act or the Strata Property Act, building permit or other development application where road or other works and services requirements may be imposed by the *Village*.

11. The *Village* shall pay to the *Developer* the sums collected within the time period of 15 years from completion of the *Extension* at the address of the *Developer* set out in this Agreement or at such other address as the *Developer* shall provide by registered mail.

12. If the payment is returned to the *Village* unclaimed by the *Developer* and if the *Village* is unable to locate the *Developer* after making all reasonable efforts, then the *Village* shall hold all monies collected until the expiry of the Agreement.

13. After the expiry of the Agreement, the *Village* shall be able to retain all unclaimed monies.

14. In the event of the assignment or transfer of the rights of the *Developer* voluntarily, or by operation of law, the *Village* shall pay any accruing benefits to the successor of the *Developer* as the *Village*, in its judgement, deems entitled to such benefits.

15. In the event of conflicting demands being made upon the *Village* for benefits accruing under this Agreement, the *Village* may, at its option, commence as action joining any party claiming rights under this Agreement, or other parties which the *Village* believes to be necessary or proper.

16. In the event of conflicting demands, the *Village* shall be discharged from further liability upon paying the person or persons whom any court having jurisdiction of such interpleader action shall determine, and in such action, the *Village* shall be entitled to recover its reasonable legal fees and costs, which shall constitute a lien upon all funds accrued or accruing pursuant to this Agreement.
17. The *Village* shall be entitled to rely on the provisions of this Agreement with respect to the fairness of the payment herein provided, and upon the description of the *Benefiting Lands* set forth in Exhibits "A" and "B".
18. This Agreement shall become operative and shall remain in full force and effect upon its being executed by the parties, and shall expire upon a date no later than fifteen (15) years after the date of the issuance of the *Certificate of Substantial Performance* or when the full cost of the extension plus interest has been collected, whichever is sooner.
19. The *Village* shall not be liable to the *Developer* in the event the *Latecomer Charge* cannot be collected for any reason, including if the *Latecomer* is held by a court of competent jurisdiction to not be liable for any reason. In the event of any dispute, the *Developer* shall indemnify the *Village* against any damages or costs incurred in seeking to enforce the collection of latecomer charges as anticipated hereunder or in any way connected with this Agreement and the *Village* shall be entitled to deduct its actual legal costs incurred from any amount payable to the *Developer*. Where no amount is payable, the *Developer* shall forthwith on demand, and from time to time on demand, reimburse the *Village* in respect of all legal costs incurred in connection with this Agreement.
20. In the event that the *Developer* fails to complete the *extension* within (12) months after the date of this Agreement, this Agreement shall lapse.
21. Prior to the expiry of the Agreement due to failure to complete the *extension*, the *Developer* may request to extend the period of the *Latecomer Agreement* on such terms and conditions that the *Village* may deem reasonable.
22. For the purpose of the above clause, the *Extension* completion date shall be recorded by the *Village* as hereinafter specified in Exhibit "C" to be appended to this Agreement upon satisfactory completion of the *Extension*.
23. Unless otherwise defined in this Agreement, all terms defined in the *Village's Works and Services Bylaw* in effect at the time of this Agreement is executed shall apply to this Agreement.

Exhibit "B"

Legal Description of Benefiting Lands: Lot 11, Plan BCP 22988, Section 19,
Township 39, NWD

EXHIBIT IS 20

BEESLEY ENGINEERING LTD.
CONSULTING ENGINEERS

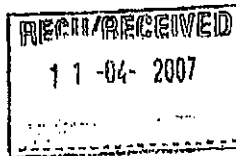
TEL (804) 827-1349
FAX (804) 827-1352

UNIT 15 1300 KETCH COURT
COQUITLAM, B.C. V3K 6W1

April 4, 2007

Our File No. 02.78

Village of Anmore
2697 Sunnyside Rd
Anmore, B.C. V3H 3C8



Attn: Mr. Howard Carley

Dear Sir:

Re: Preliminary Cost Estimate for the Construction of Crystal Creek Drive
Within the Unopened Right-of-Way Through the 618061 BC
(Klumfer/Sawyer) Property

As requested, we list below our preliminary estimate of the cost of extending Crystal Creek Drive through the unopened road right-of-way on the 618061 BC property. This cost estimate will be used in the latecomer agreement with Anmore Woods.

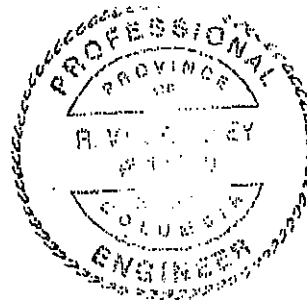
Our estimated cost for road construction is as follows:

1.	Construction of 194 metres of road at \$1,500/metre.	\$291,000
2.	Allowance for rock excavation.	\$100,000
3.	Construction of 450 sq. m of Lock Block wall at \$250/sq. m	\$112,500
4.	5% construction management fee on items 1, 2 & 3.	\$25,175
5.	Terason Gas charges. (See attached Terason estimate)	\$78,500
6.	10% engineering design and inspection on items 1, 2, 3 & 5.	\$52,867
	SUB TOTAL	\$660,042
	6% GST	\$39,603
	TOTAL	\$699,645

We trust this is the information you require.

Yours truly,
BEESLEY ENGINEERING LTD.

Ronald W. Beesley, P.Eng.



✓ c.c. Mr. Max Coupland - By Fax
Mr. Howard Carley - By Fax
Anmore Woods - By Fax

CIVIL AND STRUCTURAL ENGINEERS LAND USE PLANNING PROJECT MANAGEMENT

21

Exhibit C
Latecomer Agreement

THIS AGREEMENT made this _____ day of _____, 20____:

BETWEEN:

THE VILLAGE OF ANMORE, a Village Municipality incorporated pursuant to the Community Charter of the Province of British Columbia, and having its Municipal Offices at 2897 Sunnyside Road, Anmore, British Columbia

(the "Village")

AND:

(the "Developer")

FURTHER to the above Latecomer Agreement executed on _____, this is to certify that the *extension* work completion date has been certified by the Municipality as _____

This Appendix amends and forms part of the above Agreement.

Certified by _____

Date:

Signature: