

FORM C

(Section 233)

Province of

British Columbia

10 JUN 2008 14 52

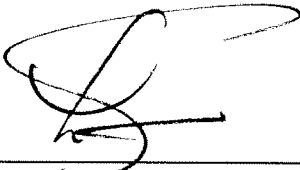
FBI80725

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

PAGE 1 of 28 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
BULL, HOUSSER & TUPPER LLP, Barristers & Solicitors, 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3 604. 687.6575 (LTO File No. 11299) (File No. 95-2977) (Section 219 Covenant)



Per:

LARRY R. SANDRIN

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

(PID)

(LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST:*

DESCRIPTION

DOCUMENT REFERENCE
(page and paragraph)

PERSON ENTITLED TO INTEREST

Section 219 Covenant

Page 6, paragraph 2.1

Transferee

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

(a) Filed Standard Charge Terms

D.F. Number:

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3

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

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local trust committee under the *Islands Trust Act*, 200 - 1627 Fort Street, Victoria, British Columbia, V8R 1H8

7. ADDITIONAL OR MODIFIED TERMS:*

N/A

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

Officer Signature(s)

EXECUTION DATE

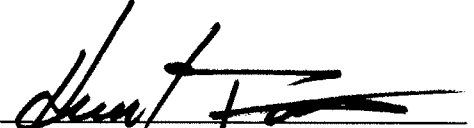
Party(ies) Signature(s)



Y	M	D
08	05	26

TRANSFEROR:

J.I. PROPERTIES, INC. by its authorized signatory:



Name:

LARRY A. SANDRIN
BARRISTER & SOLICITOR
BULL, HOUSSEY & TUPPER LLP
#8000, 1055 WEST GEORGIA
VANCOUVER, B.C. V6E 3R3
(604) 641-4873

Name: **HOWARD G. TROTT**

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

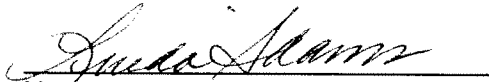
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

EXECUTION DATE


Party(ies) Signature(s)

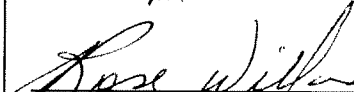

Name:

Y	M	D
08	06	03

TRANSFeree:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE by its authorized signatories:


Name: GRISTEEVES


Name: ROSE WILLOW

(as to both signatures)

LINDA JOAN ADAMS
Commissioner for Taking Affidavits
for British Columbia
200 - 1627 Fort Street
Victoria, BC V8R 1H8
Ph (250) 405-5151

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.

FORM E

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL INSTRUMENT FORM

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

(PID)	(LEGAL DESCRIPTION)
1. _____ - _____ - _____	Lot 1 of Parcel 1, James Island, Cowichan District, Plan VIP <u>85132</u>
2. _____ - _____ - _____	Lot 2 of Parcel 2, James Island, Cowichan District, Plan VIP <u>85132</u>
3. _____ - _____ - _____	Lot 3 of Parcel 3, James Island, Cowichan District, Plan VIP <u>85132</u>
4. _____ - _____ - _____	Lot 4 of Parcel 4, James Island, Cowichan District, Plan VIP <u>85132</u>
5. _____ - _____ - _____	Lot 5 of Parcel 5, James Island, Cowichan District, Plan VIP <u>85132</u>

TERMS OF INSTRUMENT - PART 2**SECTION 219 COVENANT**

THIS AGREEMENT, made with effect as of May 29, 2008,

BETWEEN:

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street,
Vancouver, British Columbia, V6E 3R3

(the "**Owner**")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local
trust committee under the *Islands Trust Act*, 200 - 1627 Fort
Street, Victoria, British Columbia, V8R 1H8

(the "**Local Trust Committee**")

WITNESSES WHEREAS:

- A. The Owner is the registered owner of the Lands;
- B. The Owner wishes to grant to the Local Trust Committee a covenant under Section 219 of the *Land Title Act*, R.S.B.C. 1996 Chapter 250, as amended; and
- C. The Local Trust Committee has required the execution and registration of the covenant set out in Section 2.1 of this Agreement as a condition of the adoption of Bylaw 170,

NOW THEREFORE in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Local Trust Committee to the Owner and for other good and valuable consideration (the receipt and sufficiency of which the Owner hereby acknowledges), the Owner and the Local Trust Committee covenant each with the other as follows:

1. DEFINITIONS

- (a) "**Conservation Covenant**" means that agreement registered at the Land Title Office under numbers F3180722 and F3180723;
- (b) "**Educational Access SRW**" means that agreement registered at the Land Title Office, under number F3180729;
- (c) "**Existing Park Covenants**" means those agreements registered against title to the Lands under Land Title Office Nos. EC78596 and EC78597;

- (d) “**Land Title Office**” means the Victoria Land Title Office;
- (e) “**Lands**” means the lands and premises legally described in Item 2 of the Form C General Instrument Part 1 to which these Terms of Instrument are attached;
- (f) “**Raptor Nesting Protection Covenant**” means a covenant under Section 219 of the *Land Title Act* in the form attached hereto as Schedule A; and
- (g) “**Wildlife Trees Protection Covenant**” means a covenant under Section 219 of the *Land Title Act* in the form attached hereto as Schedule B.

2. SECTION 219 COVENANT RE: FUTURE SUBDIVISION CONTROL

2.1 The Owner hereby covenants and agrees with the Local Trust Committee, as a covenant in favour of the Local Trust Committee pursuant to Section 219 of the *Land Title Act* (it being the intention and agreement of the Owner that the provisions hereof be annexed to and run with and be a charge upon the Lands) that the Lands may only be subdivided by way of a bare land strata plan under the *Strata Property Act* designating all of the Lands either as strata lots or common property and only if all of the following requirements have first been satisfied:

- (a) the Raptor Nesting Protection Covenant has been registered against title to the Lands in the Land Title Office, in priority to all financial legal notations, liens, charges and encumbrances;
- (b) the Wildlife Trees Protection Covenant has been registered against title to the Lands in the Land Title Office, in priority to all financial legal notations, liens, charges and encumbrances;
- (c) arrangements satisfactory to the Local Trust Committee have been made to cause the strata corporation that will be created upon the deposit of the bare land strata plan to enter into a written agreement with the covenant holders under the Conservation Covenant whereby the strata corporation assumes all of the “owner’s” obligations under Article 9 of the Conservation Covenant (the “Assumption Agreement”); and
- (d) the Conservation Covenant has been amended, in a form satisfactory to the Local Trust Committee, to incorporate an updated Report (as that term is defined in the Conservation Covenant), prepared by The Nature Conservancy of Canada, provided that the restriction contained in this paragraph (d) shall not apply after December 31, 2008 if the NCC has not prepared the Report by that date.

2.2 The Local Trust Committee covenants and agrees that the Owner may satisfy the conditions set out in paragraphs (a), (b) and (c) if the Owner causes its solicitor to provide to the Local Trust Committee a solicitor’s undertaking, in a form pre-approved in writing by the Local Trust Committee, to register the Raptor Nesting Protection Covenant and Wildlife Trees Protection Covenant concurrently with the registration of the proposed bare land strata plan and to deliver the executed Assumption Agreement to the Local Trust Committee immediately following registration of the bare land strata plan.

3. PAYMENT UNDER SECTION 941 OF THE LOCAL GOVERNMENT ACT

3.1 The Owner agrees that in connection with a bare land subdivision as contemplated in Article 2 of this Agreement, the Owner shall, and hereby does, elect to pay money under Section 941 of the *Local Government Act* and shall pay to the Capital Regional District a minimum amount of \$1,500,000.00, with the Owner and the Local Trust Committee hereby agreeing that for the purposes of calculating the amount payable under Section 941(1)(b) of the *Local Government Act* the market value of the Lands shall be at least equal to \$30,000,000.00 and the amount of land to be used to establish the amount payable shall be equal to 5% of the Lands.

3.2 In connection therewith, the Local Trust Committee acknowledges and agrees that upon payment by the Owner of the payment described in Section 3.1 above, the Owner will have satisfied all requirements of the Local Trust Committee under Section 941 of the *Local Government Act* as to the provision of parks and open space in effect as of the date of execution of this Agreement.

4. GENERAL

4.1 The Local Trust Committee agrees that upon performance by the Owner of the obligations set out in Section 2.1 and upon payment by the Owner of the payment described in Section 3.1 above, the Local Trust Committee will, promptly upon receipt of written request by the Owner, execute and deliver registrable discharges of this Agreement and the Existing Park Covenants for the purposes of registration of such discharges concurrently with the deposit of the plan of subdivision contemplated in this Agreement.

4.2 The Owner will do or cause to be done at its expense all acts reasonably necessary for the Local Trust Committee to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Local Trust Committee and those specifically approved in writing by the Local Trust Committee.

4.3 Nothing contained or implied herein will prejudice or affect the rights and powers of the Local Trust Committee in the exercise of its functions under any statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered.

4.4 The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the Local Trust Committee will be entitled to all equitable remedies, including specific performance, injunction and declaratory relief, or any combination thereof, to enforce its rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

4.5 The covenants contained in this Agreement will enure to the benefit of and be binding upon the Local Trust Committee and its successors and assigns and will enure to the benefit of and be binding upon the Owner and its successors and assigns and (subject to the following provisions of this Section 4.5) will run with the Lands and enure to the benefit of and be binding

upon the Owner's successors in title and their respective heirs, executors, administrators, trustees and successors; PROVIDED THAT:

- (a) every reference to the parties is deemed to include the respective successors and assigns of such parties;
- (b) neither the Owner named in this Agreement nor any future owner is liable for a breach of this Agreement after the Owner named herein or any future owner, as the case may be, ceases to have any interest in the relevant portions of the Lands which are charged by this Agreement;
- (c) if and to the extent that the covenant set out in Section 2.1 of this Agreement relates specifically to the use of any bare land strata lot created by the subdivision of the Lands by way of a bare land strata plan, then the respective obligations of any owner or owners of any such bare land strata lots will be limited to any such bare land strata lot owned by any such Owner;
- (d) if and to the extent that the covenant contained in Section 2.1 of this Agreement relates to common property created by the subdivision of the Lands by way of a bare land strata plan, then each respective Owner of the bare land strata corporation so created will be liable for such covenants to the extent of such Owner's respective unit entitlement in such common property as established by virtue of such bare land strata plan; and
- (e) nothing contained in Sections 4.5(c) or (d) above will limit or modify the obligations of any Owner of any bare land strata lot with respect to limited common property expressly designated for any such Owner's respective exclusive or shared use or enjoyment.

4.6 Wherever the singular or masculine is used herein the same will be construed as meaning the plural, feminine or the body corporate or politic where the contents or the parties so require.

4.7 If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

4.8 The parties hereto will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing the "Form C - General Instrument - Part 1" attached hereto.

LIST OF ATTACHMENTS:

Schedule A	Approved Form of Raptor Nesting Protection Covenant
Schedule B	Approved Form of Wildlife Trees Protection Covenant

SCHEDULE A

APPROVED FORM OF RAPTOR NESTING PROTECTION COVENANT

LAND TITLE ACT

RAPTOR NESTING PROTECTION COVENANT

FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

PAGE 1 of 8 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
 BULL, HOUSSER & TUPPER LLP, Barristers & Solicitors, 3000 - 1055 West Georgia Street, Vancouver,
 British Columbia, V6E 3R3 604. 687.6575 (LTO File No. 11299) (File No. 95-2977) (Section 219 Covenant)

Per: _____
 LARRY R. SANDRIN

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

(PID)	(LEGAL DESCRIPTION)
-------	---------------------

3. NATURE OF INTEREST:*

DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Section 219 Covenant over those areas within Reference Plan BCP _____	Page 6, paragraph 2.1	Transferee

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

(a) Filed Standard Charge Terms	<input type="checkbox"/>	D.F. Number:
(b) Express Charge Terms	<input checked="" type="checkbox"/>	Annexed as Part 2
(c) Release	<input type="checkbox"/>	There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*
 J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3

6. TRANSFEREE(S): (including postal address(es) and postal code(s))*
 NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local trust committee under the *Islands Trust Act*,
 200 - 1627 Fort Street, Victoria, British Columbia, V8R 1H8

7. ADDITIONAL OR MODIFIED TERMS:*

N/A

GENERAL INSTRUMENT

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

Officer Signature(s)

EXECUTION DATE

Party(ies) Signature(s)

Y	M	D
08		

TRANSFEROR:

J.I. PROPERTIES, INC. by its authorized signatory:

Name:

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

EXECUTION DATE

Party(ies) Signature(s)

Y	M	D
08		

TRANSFeree:

NORTH PENDER ISLAND LOCAL
TRUST COMMITTEE by its authorized
signatory(ies):

Name:

(as to both signatures)

Name:

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT - PART 2

SECTION 219 COVENANT

THIS AGREEMENT, made with effect as of _____, 20____,

BETWEEN:

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street,
Vancouver, British Columbia, V6E 3R3

(the "**Owner**")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local
trust committee under the *Islands Trust Act*, 200 - 1627 Fort
Street, Victoria, British Columbia, V8R 1H8

(the "**Local Trust Committee**")

WITNESSES WHEREAS:

- A. It is understood and agreed that this instrument should be read as follows:
 - (a) the Transferor, J.I. Properties, Inc., is called "the Owner"; and
 - (b) the Transferee, North Pender Island Local Trust Committee, is called "the Local Trust Committee";
- B. The Owner is the registered owner of the Lands;
- C. Subsections 219(2) and 219(4) of the *Land Title Act*, R.S.B.C. 1996 Chapter 250, as amended, permit registration of a covenant in favour of a local trust committee under the *Islands Trust Act* in respect of the use of land or the use of a building on or to be erected on land and that land is or is not to be built on except in accordance with the covenant; and
- D. The Local Trust Committee has required the execution and registration of the covenant set out in Section 2.1 of this Agreement as a condition of the adoption of Bylaw 170,

NOW THEREFORE in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Local Trust Committee to the Owner and for other good and valuable consideration (the receipt and sufficiency of which the Owner hereby acknowledges), the Owner and the Local Trust Committee covenant each with the other as follows:

5. DEFINITIONS

- (a) “**Lands**” means the lands and premises legally described in Item 2 of the Form C General Instrument Part 1 to which these Terms of Instrument are attached;
- (b) “**Noise Control Area**” means any portion of the Lands located within 100 metres from any Raptor Nesting Tree and as shown on the Reference Plan;
- (c) “**Qualified Biologist**” means any Registered Professional Biologist (registered with the College of Applied Biology pursuant to the British Columbia *College of Applied Biology Act*) retained by and at the expense of the Owner (or any other party on behalf of the Owner), having experience acceptable to the Local Trust Committee (acting reasonably) with the evaluation of habitat requirements of raptors on or in the vicinity of James Island;
- (d) “**Raptor Breeding Periods**” means the period during each year following the date of execution and registration of this Agreement commencing on January 15 and ending on June 30 of each relevant year;
- (e) “**Raptor Nesting Trees**” means those trees, so labeled and located as of the date of execution of this Agreement by the Owner as shown on the Reference Plan;
- (f) “**Reference Plan**” means that Reference Plan deposited at the Victoria Land Title Office described in Section 3 of Part 1 of this General Instrument, a photo-reduced copy of which is attached hereto as Schedule A; and
- (g) “**Restricted Activity Area**” means any portion of the Lands located within 100 metres from any Raptor Nesting Tree and as shown on the Reference Plan.

6. SECTION 219 COVENANT RE: PROTECTION OF RAPTOR NESTS

6.1 The Owner hereby covenants and agrees with the Local Trust Committee, as a covenant in favour of the Local Trust Committee pursuant to Section 219 of the *Land Title Act* (it being the intention and agreement of the Owner that the provisions hereof be annexed to and run with and be a charge upon the Lands) that the Lands will be used and built on only in strict compliance with the terms and conditions of this Agreement and, more specifically, that:

- (a) the Owner will not (unless otherwise approved in writing by the Local Trust Committee following receipt and reasonable consideration of the recommendations of any Qualified Biologist relating to the removal or trimming of any Raptor Nesting Tree) fell, trim or otherwise remove any Raptor Nesting Tree;
- (b) the Owner will not place nor construct any new building or man-made structure intended to be occupied for residential or commercial purposes (nor, place or construct any other buildings or structures, unless otherwise approved in writing by the Local Trust Committee following receipt and reasonable consideration of

- the recommendations of any Qualified Biologist relating to the placement or construction of any such building or structure) within any Restricted Activity Area;
- (c) the Owner will not generate nor knowingly permit to be generated within any Noise Control Area and during any Raptor Breeding Periods, any significant noise in the nature of blasting, fireworks or disruptive construction activities producing noise above 65 decibels in volume;
 - (d) the Owner will not apply nor release pesticides, insecticides nor fungicides within the Restricted Activity Area; and
 - (e) the Owner will not, within any portion of the Lands located within 30 metres from any Raptor Nesting Tree, remove any natural vegetation growing therein;

PROVIDED THAT, in connection with the interpretation of the covenants set out in Sections 6.1(b), (c), (d) and (e) above:

- (f) nothing herein contained will prohibit any Owner from occupying any building existing upon any portion of the Lands prior to the date of execution of this Agreement by the Owner; and
- (g) nothing herein contained will prohibit the operation of automobiles on roads or pathways nor of golf carts, golf maintenance equipment or electric vehicles nor any pedestrian movement nor the playing of golf upon any golf course existing prior to the date of execution of this Agreement by the Owner, notwithstanding that such activities may occur during Raptor Breeding Periods.

7. GENERAL

7.1 The Owner will do or cause to be done at its expense all acts reasonably necessary for the Local Trust Committee to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Local Trust Committee and those specifically approved in writing by the Local Trust Committee.

7.2 Nothing contained or implied herein will prejudice or affect the rights and powers of the Local Trust Committee in the exercise of its functions under any statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered.

7.3 The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the Local Trust Committee will be entitled to all equitable remedies, including specific performance, injunction and declaratory relief, or any combination thereof, to enforce its rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

7.4 The covenants contained in this Agreement will enure to the benefit of and be binding upon the Local Trust Committee and its successors and assigns and will enure to the benefit of and be binding upon the Owner and its successors and assigns and (subject to the following provisions of this Section 4.5) will run with the Lands and enure to the benefit of and be binding upon the Owner's successors in title and their respective heirs, executors, administrators, trustees and successors; PROVIDED THAT:

- (a) every reference to the parties is deemed to include the respective successors and assigns of such parties;
- (b) neither the Owner named in this Agreement nor any future owner is liable for a breach of this Agreement after the Owner named herein or any future owner, as the case may be, ceases to have any interest in the relevant portions of the Lands which are charged by this Agreement;
- (c) if and to the extent that the covenants set out in Section 2.1 of this Agreement relate specifically to the use of any bare land strata lot created by the subdivision of the Lands by way of a bare land strata plan, then the respective obligations of any owner or owners of any such bare land strata lots will be limited to any such bare land strata lot owned by any such Owner;
- (d) if and to the extent that the covenants contained in Section 2.1 relate to common property created by the subdivision of the Lands by way of a bare land strata plan, then each respective Owner of the bare land strata corporation so created will be liable for such covenants to the extent of such Owner's respective unit entitlement in such common property as established by virtue of such bare land strata plan; and
- (e) nothing contained in Sections 4.5(c) or (d) above will limit or modify the obligations of any Owner of any bare land strata lot with respect to limited common property expressly designated for any such Owner's respective exclusive or shared use or enjoyment.

7.5 Wherever the singular or masculine is used herein the same will be construed as meaning the plural, feminine or the body corporate or politic where the contents or the parties so require.

7.6 If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

7.7 The parties hereto will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing the "Form C - General Instrument - Part 1" attached hereto.

SCHEDULE A
REFERENCE PLAN

END OF DOCUMENT

SCHEDULE B

APPROVED FORM OF WILDLIFE TREES PROTECTION COVENANT

LAND TITLE ACT

WILDLIFE TREES PROTECTION COVENANT

FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

PAGE 1 of 11 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
BULL, HOUSSER & TUPPER LLP, Barristers & Solicitors, 3000 - 1055 West Georgia Street, Vancouver,
British Columbia, V6E 3R3 604. 687.6575 (LTO File No. 11299) (File No. 95-2977) (Section 219 Covenant)

Per: _____
LARRY R. SANDRIN

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

3. NATURE OF INTEREST: * DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Section 219 Covenant	Page 6, paragraph 2.1	Transferee

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

(a) Filed Standard Charge Terms	<input type="checkbox"/>	D.F. Number:
(b) Express Charge Terms	<input checked="" type="checkbox"/>	Annexed as Part 2
(c) Release	<input type="checkbox"/>	There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): *
J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) *
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local trust committee under the *Islands Trust Act*,
200 - 1627 Fort Street, Victoria, British Columbia, V8R 1H8

7. ADDITIONAL OR MODIFIED TERMS: *
N/A

GENERAL INSTRUMENT

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

Officer Signature(s)

EXECUTION DATE

Party(ies) Signature(s)

Y	M	D
08		

TRANSFEROR:

J.I. PROPERTIES, INC. by its authorized signatory:

Name:

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

EXECUTION DATE

Party(ies) Signature(s)

Y	M	D
08		

TRANSFeree:

NORTH PENDER ISLAND LOCAL
TRUST COMMITTEE by its authorized
signatory(ies):

Name:

(as to both signatures)

Name:

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT - PART 2

SECTION 219 COVENANT

THIS AGREEMENT, made with effect as of _____, 20____,

BETWEEN:

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street,
Vancouver, British Columbia, V6E 3R3

(the "**Owner**")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local
trust committee under the *Islands Trust Act*, 200 - 1627 Fort
Street, Victoria, British Columbia, V8R 1H8

(the "**Local Trust Committee**")

WITNESSES WHEREAS:

- A. It is understood and agreed that this instrument should be read as follows:
 - (a) the Transferor, J.I. Properties, Inc., is called "the Owner"; and
 - (b) the Transferee, North Pender Island Local Trust Committee, is called "the Local Trust Committee";
- B. The Owner is the registered owner of the Lands;
- C. Section 219 of the *Land Title Act*, R.S.B.C. 1996 Chapter 250, as amended, permits registration of a covenant in favour of a local trust committee under the *Islands Trust Act* in respect of the use of land or the use of a building on or to be erected on land and that land is or is not to be built on except in accordance with the covenant; and
- D. The Local Trust Committee has required the execution and registration of the covenant set out in Section 2.1 of this Agreement as a condition of the adoption of Bylaw 170,

NOW THEREFORE in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Local Trust Committee to the Owner and for other good and valuable consideration (the receipt and sufficiency of which the Owner hereby acknowledges), the Owner and the Local Trust Committee covenant each with the other as follows:

8. DEFINITIONS

- (a) “**Lands**” means the lands and premises legally described in Item 2 of the Form C General Instrument Part 1 to which these Terms of Instrument are attached;
- (b) “**Protected Wildlife**” means those species listed in Table 1, Table 2 and Table 3 of Schedule A to this Agreement;
- (c) “**Qualified Biologist**” means any Registered Professional Biologist (registered with the College of Applied Biology pursuant to the British Columbia *College of Applied Biology Act*) retained by and at the expense of the Owner (or any other party on behalf of the Owner), having experience acceptable to the Local Trust Committee (acting reasonably) with the evaluation of habitat requirements of Protected Wildlife upon or in the vicinity of James Island; and
- (d) “**Wildlife Trees**” means any trees located upon the Lands which are determined by any Qualified Biologist to offer significant habitat to any Protected Wildlife at any time from and after the date of execution of this Agreement by the Owner.

9. SECTION 219 COVENANT RE: PROTECTION OF WILDLIFE TREES

9.1 The Owner hereby covenants and agrees with the Local Trust Committee, as a covenant in favour of the Local Trust Committee pursuant to Section 219 of the *Land Title Act* (it being the intention and agreement of the Owner that the provisions hereof be annexed to and run with and be a charge upon the Lands) that the Lands will be used and built on only in strict compliance with the terms and conditions of this Agreement and, more specifically, that the Owner will not (unless otherwise approved in writing by the Local Trust Committee following receipt and reasonable consideration of the recommendations of any Qualified Biologist (relating to the felling or removal of any Wildlife Tree) engage in or knowingly permit the falling or removal of any Wildlife Tree from any portion of the Lands unless a Qualified Biologist has provided an opinion as to the continued availability of suitable wildlife habitat for Protected Wildlife through other existing Wildlife Trees located elsewhere upon the Lands. In connection with the provision of any relevant opinion contemplated under this Section 9.1, the Qualified Biologist shall have reference to and shall consider that report dated June, 2006 and entitled “*A Conservation Assessment of the Bird and Mammal Fauna of James Island, British Columbia*”, a copy of which is attached hereto as Schedule B.

9.2 If the Owner of any relevant legal parcel of the Lands breaches the covenants contained in Section 9.1, with the result that any Wildlife Tree is felled or removed from any portion of the Lands without the provision of a supporting opinion from a Qualified Biologist as to the continued availability of suitable wildlife habitat for Protected Wildlife through other existing Wildlife Trees located elsewhere upon the Lands (unless mitigation measures to the reasonable satisfaction of the Local Trust Committee are implemented), such Owner will, promptly upon demand by the Local Trust Committee, pay to the Local Trust Committee the sum of \$1,000.00 as liquidated damages for each Wildlife Tree which is felled or removed in breach of the covenant contained in Section 9.1 of this Agreement.

10. GENERAL

10.1 The Owner will do or cause to be done at its expense all acts reasonably necessary for the Local Trust Committee to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Local Trust Committee and those specifically approved in writing by the Local Trust Committee.

10.2 Nothing contained or implied herein will prejudice or affect the rights and powers of the Local Trust Committee in the exercise of its functions under any statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered.

10.3 The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the Local Trust Committee will be entitled to all equitable remedies, including specific performance, injunction and declaratory relief, or any combination thereof, to enforce its rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

10.4 The covenants contained in this Agreement will enure to the benefit of and be binding upon the Local Trust Committee and its successors and assigns and will enure to the benefit of and be binding upon the Owner and its successors and assigns and (subject to the following provisions of this Section 4.5) will run with the Lands and enure to the benefit of and be binding upon the Owner's successors in title and their respective heirs, executors, administrators, trustees and successors; PROVIDED THAT:

- (a) every reference to the parties is deemed to include the respective successors and assigns of such parties;
- (b) neither the Owner named in this Agreement nor any future owner is liable for a breach of this Agreement after the Owner named herein or any future owner, as the case may be, ceases to have any interest in the relevant portions of the Lands which are charged by this Agreement;
- (c) if and to the extent that the covenant set out in Section 2.1 of this Agreement relates specifically to the use of any bare land strata lot created by the subdivision of the Lands by way of a bare land strata plan, then the respective obligations of any owner or owners of any such bare land strata lots will be limited to any such bare land strata lot owned by any such Owner;
- (d) if and to the extent that the covenant contained in Section 2.1 of this Agreement relates to common property created by the subdivision of the Lands by way of a bare land strata plan, then each respective Owner of the bare land strata corporation so created will be liable for such covenants to the extent of such Owner's respective unit entitlement in such common property as established by virtue of such bare land strata plan; and

- (e) nothing contained in Sections 4.5(c) or (d) above will limit or modify the obligations of any Owner of any bare land strata lot with respect to limited common property expressly designated for any such Owner's respective exclusive or shared use or enjoyment.

10.5 Wherever the singular or masculine is used herein the same will be construed as meaning the plural, feminine or the body corporate or politic where the contents or the parties so require.

10.6 If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

10.7 The parties hereto will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing the "Form C - General Instrument - Part 1" attached hereto.

ATTACHMENTS:

SCHEDULE A	LIST OF PROTECTED WILDLIFE
SCHEDULE B	COPY OF REPORT: "A CONSERVATION ASSESSMENT OF THE BIRD AND MAMMAL FAUNA OF JAMES ISLAND, BRITISH COLUMBIA"

SCHEDULE A
LIST OF PROTECTED WILDLIFE

TABLE 1: PRIMARY CAVITY EXCAVATORS THAT LIKELY BREED ON JAMES ISLAND.

Species	Evidence of Breeding on James Island
Red-breasted Sapsucker	Present during breeding season = probable breeder.
Downy Woodpecker	Not recorded but probably occurs at least seasonally, may breed.
Hairy Woodpecker	Not recorded but high probability that this species breeds on the island.
Northern Flicker	Nest found in wildlife tree.
Pileated Woodpecker	Present during breeding season = probable breeder.
Chestnut-backed Chickadee	Adults found carrying food to fledglings – confirmed breeder.
Red-breasted Nuthatch	Present during breeding season = probable breeder.

Explanatory Commentary Re: Primary Cavity Excavators

On James Island, the primary cavity excavators that could be expected to occur are all birds that use their beaks excavate their own nest or roost cavities in wildlife trees. They range from strong (e.g., Pileated Woodpecker) to weak excavators (e.g., Red-breasted Nuthatch), however all select trees with some level of decay for cavity excavation.

TABLE 2: SECONDARY CAVITY USERS THAT MAY USE CAVITIES IN WILDLIFE TREES ON JAMES ISLAND.

Species	Probability of cavity use on James Island
Wood Duck	Possible breeder dependant on cavity availability.
Hooded Merganser	An active nest found in an artificial cavity in 2006. This species will also use natural cavities if available.
Common Merganser	Possible breeder dependant on cavity availability.
American Kestrel	Present during breeding season = high probability of cavity nest user.
Western Screech-Owl	Present during breeding season = high probability of cavity nest user.
Northern Pygmy-Owl	Possible breeder dependant on cavity availability.
Barred Owl	Probable breeder.
Vaux's Swift	Possible breeder dependant on cavity availability.
Tree Swallow	Present during breeding season = probable breeder.
Violet Green Swallow	An active nest was found in a natural cavity in an arbutus tree in 2006.
Brown Creeper	Present during breeding season = probable breeder.
House Wren	Breeding confirmed
Western Bluebird	Currently unlikely as this species is considered extirpated in the Georgia Depression. Reintroduction possibilities are currently being explored, therefore this species may turn up in the future.
Big Brown Bat	Roosts in tree cavities, probably occurs on James Island.
Silver Haired Bat	Roosts in tree cavities and under loose bark, may occur on James Island.
Hoary Bat	Roosts in tree foliage, may occur on James Island.
California Myotis	Roost in trees and other crevices, likely occurs on James Island.
Long-eared Myotis	Roost in trees and other crevices, may occur on James Island.
Keen's Myotis	Roosts in trees and other crevices, this rare species could occur on James Island.
Little Brown Myotis	Roosts in trees and other crevices, probably occurs on James Island.
Long-legged Myotis	Roosts in trees and other crevices, likely occur on James Island.
Yuma Myotis	Roosts in trees and other crevices, probably occur on James Island.

Explanatory Commentary Re: Secondary Cavity Users

Secondary cavity users are birds or animals that require cavities for a critical component of their life cycle (i.e., nesting, roosting, food storage) but are unable to create these cavities themselves. They therefore use abandoned cavities of primary excavators or cavities that have been created naturally through decay or breakage (e.g., large limbs broken by wind often lead to decay and natural cavity development).

TABLE 3: WILDLIFE TREE DEPENDANT OPEN-NESTERS THAT MAY OCCUR ON JAMES ISLAND.

Species	Evidence of Breeding on James Island
Great Blue Heron	Occurs during breeding season foraging on the shore line, but currently unlikely to breed on the island due to the high population of Bald Eagles, a known predator of herons.
Osprey	Present during breeding season, may currently breed or breed at some time in the future, although no active nests found in 2006.
Bald Eagle	Confirmed breeding species with four active nests found on the island in 2006.
Red-tailed Hawk	Probable breeder – adults and immature birds found during the breeding season.
Great-horned Owl	Probable breeder – juveniles heard during the breeding season.

Explanatory Commentary Re: Open nesters that depend on Wildlife Trees

Many species of birds build open, cup-shaped or platform nests in trees of varying sizes. A few species, however, require very large trees to support their nests, and these trees often have broken tops, or are otherwise classified as wildlife trees.

SCHEDULE B

**COPY OF REPORT: "A CONSERVATION ASSESSMENT
OF THE BIRD AND MAMMAL FAUNA OF JAMES ISLAND, BRITISH COLUMBIA"**

END OF DOCUMENT

END OF DOCUMENT