

Wade's River Ltd Co.
Dykes

DATED:

A G R E E M E N T

BETWEEN:

THE GOVERNMENT OF THE PROVINCE OF
BRITISH COLUMBIA, as represented
by The Minister of Environment,

OF THE FIRST PART

AND:

THE CORPORATION OF THE TOWNSHIP
OF CHILLIWHACK,

OF THE SECOND PART

Ministry of the Attorney-General

THIS AGREEMENT made this 20th day of March, 1979.

BETWEEN:

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA
(hereinafter referred to as "the Province")
represented by the Honourable K. Rafe Mair,
Minister of Environment

OF THE FIRST PART

AND:

THE CORPORATION OF THE TOWNSHIP OF CHILLIWHACK
(hereinafter called "the Local Authority")

OF THE SECOND PART

WHEREAS an agreement covering a Plan for Flood Control in the Fraser Valley, British Columbia, was signed on the 24th day of May, 1968 by the Government of Canada, represented by Honourable Jean-Luc Pepin, Minister of Energy, Mines and Resources, and by the Government of the Province of British Columbia, represented by the Honourable Ray Williston, Minister of Lands, Forests and Water Resources;

AND WHEREAS the program for the Chilliwack area under the said Federal-Provincial agreement provides for the improvement of dyking, drainage, and bank protection works, including works along the Vedder River, all within the jurisdiction of the Local Authority, and on Indian Reserves as set out in Schedule "A" to that agreement;

AND WHEREAS the Local Authority made application to Province for the implementation of a program of improvement and construction of flood control works within its jurisdiction and on Indian Reserves under the said Federal-Provincial agreement;

AND WHEREAS the Local Authority entered into an agreement with the Province on the 27th day of February, 1973 for the construction by the Province and for the maintenance and operation by the Local Authority of certain works;

AND WHEREAS certain plans for the construction of "the works" (as hereinafter defined) within the boundaries of the "Rights of Way" (as hereinafter defined) and along the "Management Area" (as hereinafter defined) have now been prepared;

AND WHEREAS the Local Authority has accepted the aforesaid plans;

AND WHEREAS the Local Authority has, in accordance with the Municipal Act, by by-law made provision for the acquisition of the Rights of Way and of the Management Area;

AND WHEREAS the Management Area is to be acquired by the Local Authority on behalf of and be transferred by the Local Authority to the Province;

AND WHEREAS a plan for the management of the Management Area (hereinafter referred to as the "Management Plan") is to be developed to provide appropriate measures for the continued use of the Management Area for the benefit of the people of the Province, and to ensure the capability of the Management Area to accommodate a 200-year flood flow;

AND WHEREAS commencement of construction or improvement of the works is subject to receipt of those approvals required under the terms of the said Federal-Provincial agreement;

AND WHEREAS the total estimated cost of acquiring the Rights of Way and the Management Area and of the works is as set out in Schedule "B" attached hereto;

AND WHEREAS His Honour, the Lieutenant-Governor in Council, by Order-in-Council No. 740 , Approved and Ordered on

March 15 , 1979 , has authorized the Minister of Environment to execute this agreement on behalf of the Province under the terms of the Canada-British Columbia Joint Development Act:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the premises, covenants and agreements herein contained and other good and valuable considerations, the Province and the Local Authority covenant and agree each with the other as follows:

1. In this agreement including the foregoing recitals:

"Plan" means that document attached hereto and marked Schedule "A";

(b) "the works" means any dyke, groyne, flood-box, culvert, ditch or pumping station intended for use as a flood control or drainage structure and any appurtenance thereto that is to be constructed or improved within the boundaries of the Rights of Way (as that term is defined in paragraph 1.(c)(i) of this agreement) in accordance with the said Federal-Provincial agreement and this agreement;

"Rights of Way" means:

- (i) before completion of construction or improvement of the works those areas shown cross-hatched on the Plan and,
- (ii) after completion of construction or improvement of the works so much of those areas shown cross-hatched on the Plan as the works have actually been constructed or improved upon;

"Management Area" means:

- (i) before completion of construction or improvement of the works that area outlined on the Plan and marked Management Area and lying between the Rights of Way (as that term is defined in paragraph 1.(c)(i) of this agreement) and,
- (ii) after completion of construction or improvement of the works that area outlined on the Plan and marked Management Area and lying between the Rights of Way (as that term is defined in paragraph 1.(c)(ii) of this agreement).

2. The Province shall, after completion of construction or improvement of the works, cause a legal survey or legal surveys to be prepared showing the Rights of Way (as that term is defined in paragraph 1.(c)(ii) of this agreement) and the Management Area (as that term is defined in paragraph

3. Subject to receipt of those approvals required under the terms of the said Federal-Provincial agreement the Province will construct or improve the works (as hereinbefore defined and also described in that program for the works approved by the Local Authority by lawful resolution dated February 6, 1979).
4. The time of commencement and the time limited for completion of construction or improvement of the works shall be as set forth in schedules prepared by the Province.
5. The Province will provide the Local Authority with "as constructed" plans of the works after completion of construction or improvement of the works.
6. The Local Authority shall acquire, at the cost of the Local Authority and before commencement of construction or improvement of the works, but subject to the provisions of paragraph 11. hereof:
 - (a) the Rights of Way as that term is defined in paragraph 1.(c)(i) of this agreement, and
 - (b) the Management Area as that term is defined in paragraph 1.(d)(i) of this agreement.
7. The Local Authority shall provide, at the cost of the Local Authority and before commencement of construction or improvement of the works and thereafter until completion of construction or improvement of the works, such access as is, in the reasonable opinion of the Province, required to enable the works to be constructed or improved except where any such access is over Crown lands.
8. Where any access referred to in paragraph 7. of this agreement is over Crown lands the Province will provide that access without cost to the Local Authority

9. The Local Authority shall take over, assume responsibility for, operate and maintain in good order and repair the works as any clearly divisible portion thereof is completed. For the purposes of this paragraph a "clearly divisible portion thereof" shall mean either or both of:

the dyke and its groynes on the north side of the Vedder River,

the dyke and its groynes on the south side of the Vedder River.

10. The Local Authority shall, forthwith following completion of the preparation of the legal survey or legal surveys referred to in paragraph 2. of this agreement, execute and deliver to the Province such document or documents as is or are required to enable title to the Management Area (as that term is defined in paragraph 1.(d)(ii) of this agreement) to be registered in the name of Her Majesty the Queen in Right of the Province.

11. The Province will, initially, reimburse the Local Authority eighty-eight percent (88%) of the costs incurred by the Local Authority in complying with the provisions of paragraph 6 of this agreement, including interest and all other administrative costs directly related to compliance by the Local Authority with the provisions of said paragraph 6, and the Province and the Local Authority will, following completion of the preparation of the legal survey or legal surveys referred to in paragraph 2 of this agreement, adjust the aforesaid reimbursement so that the same is directly proportionate to the area that the Management Area (as that term is defined in paragraph 1.(d)(ii) of this agreement) bears to the aggregate area of

the Management Area (as that term is defined in paragraph 1.(d)(ii) of this agreement) and,

12. The Province will initiate steps for the development of the Management Plan for the Management Area with the Local Authority and with those Federal agencies having responsibilities with respect to the Management Area and taking into account the interests of the public at large in the future utilization of the Management Area.
13. The Local Authority will participate in the development and in the operation of the Management Plan and will provide such access to the Management Area through, upon over the works and the Rights of Way (as that term is defined in paragraph 1.(c)(ii) of this agreement) as is required for the use, operation and maintenance of the Management Area under and pursuant to the Management Plan.
14. If any question of the interpretation of this agreement or of the performance by the Province or by the Local Authority of any of their respective obligations under this agreement arises or where no express or only partial or imperfect provision has been made in this agreement, the question or matter shall be referred to a single arbitrator appointed pursuant to the "Arbitration Act" and the award of such arbitrator with respect to any such reference shall be final binding on the Province and on the Local Authority.
15. This agreement shall extend to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the Honourable K. Rafe Mair, Minister of Environment, has hereunto set his hand on behalf of the Province, and the Corporate Seal of The Corporation of the Township of Chilliwack has hereunto been affixed in the presence of

on behalf of the Local Authority

In the presence of:

The Government of the Province
of British Columbia

Ms Selia Tait

[Signature]
Minister of Environment

The Corporate Seal of)
The Corporation of the)
Township of Chilliwack)
was hereunto affixed in)
the presence of its)
Mayor and Municipal)
Clerk)

[Signature]
Mayor
[Signature]
Municipal Clerk

Schedule "B"

ESTIMATED COSTS

The following is the estimated cost established from the 1978 Report on Flood Control Works, Vedder River, Phase III, and from subsequent land acquisition estimates:

Rights of Way and Management Area acquisition costs	\$3,500,000
Cost of the works	<u>\$2,000,000</u>
Total:	<u><u>\$5,500,000</u></u>