



Notice of Meeting and Meeting Agenda Hospitals and Housing Committee

Wednesday, November 3, 2021

1:30 PM

6th Floor Boardroom
625 Fisgard St.
Victoria, BC V8W 1R7

L. Helps (Chair), G. Orr (Vice Chair), D. Blackwell, S. Brice, F. Haynes, G. Holman, J. Loveday,
K. Murdoch, D. Screech, C. Plant (Board Chair, ex officio)

The Capital Regional District strives to be a place where inclusion is paramount and all people are treated with dignity. We pledge to make our meetings a place where all feel welcome and respected.

1. Territorial Acknowledgement

2. Approval of Agenda

3. Adoption of Minutes

3.1. [21-823](#) Minutes of the October 6, 2021 Hospitals and Housing Committee Meeting

Recommendation: That the minutes of the Hospitals and Housing Committee meeting of October 6, 2021 be adopted as circulated.

Attachments: [Minutes - October 6, 2021](#)

4. Chair's Remarks

5. Presentations/Delegations

In keeping with directives from the Province of BC, there is limited space for the public to attend CRD Board meetings in-person at this time. However, the public may continue to view meeting materials and Live Webcasts online. If you wish to attend a meeting in-person, please email legserv@crd.bc.ca.

CRD encourages delegations to participate electronically. Please complete the online application for "Addressing the Board" on our website and staff will respond with details.

Alternatively, you may email your comments on an agenda item to the CRD Board at crdboard@crd.bc.ca.

6. Committee Business

6.1. [21-815](#) 4734, 4744, 4754 Elk Lake Drive Housing Agreement and Bylaw

Recommendation: The Hospitals and Housing Committee recommends to the Capital Regional District Board:

1. That Bylaw No.4459, "Resale Control and Housing Agreement Bylaw (4734, 4744, 4754 Elk Lake Drive), 2021" be introduced and read for a first, second and third time; and
2. That Bylaw No. 4459 be adopted.

Attachments: [Staff Report: 4734, 4744, 4754 Elk Lk Dr Housing Agrm't & Bylaw](#)
[Appendix A: Section 219 Covenant and Housing Agreement](#)
[Appendix B: Capital Regional District Bylaw No. 4459](#)

6.2. [21-810](#) Revenue Anticipation Borrowing Resolution for Current Capital Regional Hospital District Operating Expenditures

Recommendation: The Hospitals and Housing Committee recommends to the Capital Regional Hospital District Board:

That the Revenue Anticipation Resolution be adopted to allow the temporary borrowing of up to \$10 million for current Capital Regional Hospital District operating expenditures.

Attachments: [Staff Report: Revenue Anticipation Borrowing Resolution](#)
[Appendix A: Revenue Anticipation Borrowing Resolution](#)

7. Notice(s) of Motion**8. New Business****9. Adjournment**

The next meeting is December 1, 2021.

To ensure quorum, please advise Tamara Pillipow (tpillipow@crd.bc.ca) if you or your alternate cannot attend.

Meeting Minutes

Hospitals and Housing Committee

Wednesday, October 6, 2021

1:30 PM

6th Floor Boardroom
625 Fisgard St.
Victoria, BC V8W 1R7

PRESENT

Directors: L. Helps (Chair), G. Orr (Vice Chair), D. Blackwell, S. Brice, F. Haynes, G. Holman, J. Loveday, K. Murdoch, D. Screech

Staff: R. Lapham, Chief Administrative Officer; N. Chan, Chief Financial Officer; K. Lorette, General Manager, Planning and Protective Services; M. Barnes, Senior Manager, Health and Capital Planning Strategies; D. Elliott, Senior Manager, Regional Housing; M. Lagoa, Deputy Corporate Officer; T. Pillipow, Committee Clerk (Recorder)

EP - Electronic Participation

Regrets: Director C. Plant (Board Chair, ex officio)

The meeting was called to order at 1:32 pm.

1. Territorial Acknowledgement

Chair Helps provided a Territorial Acknowledgement.

2. Approval of Agenda

MOVED by Director Screech, **SECONDED** by Director Brice,
That the agenda for the October 6, 2021 Hospitals and Housing Committee meeting be approved.
CARRIED

3. Adoption of Minutes

3.1. [21-714](#)

Minutes of the September 1, 2021 Hospitals and Housing Committee Meeting

MOVED by Director Blackwell, **SECONDED** by Director Haynes,
That the minutes of the Hospitals and Housing Committee meeting of September 1, 2021 be adopted as circulated.
CARRIED

4. Chair's Remarks

Chair Helps commented on the many important agenda items to be reviewed today.

5. Presentations/Delegations

- 5.1. [21-734](#) Delegation - Kathy Gillis; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Kathy Gillis spoke in opposition to Item 6.4.
- 5.2. [21-735](#) Delegation - Laurence Coogan; Resident of Victoria: Re: Agenda Item
6.4.: Summit Noise Concerns Update

Laurence Coogan spoke in opposition to Item 6.4.
- 5.3. [21-736](#) Delegation - Jennifer Ferris; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Jennifer Ferris spoke in opposition to Item 6.4.
- 5.4. [21-737](#) Delegation - Patti Dewhurst; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Patti Dewhurst spoke in opposition to Item 6.4.
- 5.5. [21-738](#) Delegation - Laura Taylor; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Laura Taylor spoke in opposition to Item 6.4.
- 5.6. [21-739](#) Delegation - Elizabeth Maurer; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Elizabeth Maurer spoke in opposition to Item 6.4.
- 5.7. [21-740](#) Delegation - Rowena Locklin; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Rowena Locklin spoke in opposition to Item 6.4.
- 5.8. [21-741](#) Delegation - John Hall; Resident of Victoria: Re: Agenda Item 6.4.: Summit
Noise Concerns Update

John Hall spoke in opposition to Item 6.4.
- 5.9. [21-742](#) Delegation - Byron Plant; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update

Byron Plant spoke in opposition to Item 6.4.

- 5.10. [21-744](#) Delegation - Carol Sokoloff; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update
Carole Sokoloff spoke in opposition to Item 6.4.
- 5.11. [21-745](#) Delegation - David Lemon; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update
David Lemon spoke in opposition to Item 6.4.
- 5.12. [21-751](#) Delegation - Gillian Hillidge; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update
Gillian Hillidge spoke in opposition to Item 6.4.
- 5.13. [21-752](#) Delegation - Joanne Newell; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update
Joanne Newell spoke in opposition to Item 6.4.
- 5.14. [21-753](#) Delegation - Alison Patterson; Resident of Victoria: Re: Agenda Item 6.4.:
Summit Noise Concerns Update
Alison Patterson spoke in opposition to Item 6.4.

6. Committee Business

**MOVED by Director Haynes, SECONDED by Director Blackwell,
That the agenda be amended to move Item 6.4. ahead of Item 6.1.
CARRIED**

6.4. [21-669](#) Summit Noise Concerns Update

K. Lorette introduced M. Barnes who spoke to Item 6.4.

Discussion ensued on the following:

- the engagement process undertaken with residents
- the conditions under which the testing was performed
- releasing the raw data test results to the public
- the decibel level and tone of the noise emanating from Summit
- the cost of contracting an engineer for further testing, not including implementing recommended changes

**MOVED by Director Blackwell, SECONDED by Director Screech,
That the Hospitals and Housing Committee recommends to the Capital Regional
Hospital District Board:**

To direct staff to conduct acoustic engineering work and report back.

**MOVED by Director Loveday, SECONDED by Director Holman,
That the motion be amended by adding the wording "up to an amount of
\$50,000."**

CARRIED

**MOVED by Director Loveday, SECONDED by Director Holman,
That the motion be amended to add a second bullet "And further engage with
residents to hear their experiences and that the community be involved,
consulted and informed throughout the process moving forward."**

OPPOSED: Blackwell, Screech.

CARRIED

The question was called on the main motion as amended.

The Hospitals and Housing Committee recommends to the Capital Regional
Hospital District Board:

1. To direct staff to conduct acoustic engineering work, up to an amount of \$50,000, and report back.
2. And further engage with residents to hear their experiences and that the community be involved, consulted and informed throughout the process moving forward.

CARRIED

6.1. [21-691](#) 2022 Service Planning - Health Facilities

K. Lorette spoke to Item 6.1.

Discussion ensued on initiating a discussion with Island Health on a planning process for the Lady Minto Hospital site.

Director Brice left the meeting at 3:03 pm.

**MOVED by Director Blackwell, SECONDED by Director Orr,
The Hospitals and Housing Committee recommends the Committee of the Whole
recommend to the Capital Regional District Board:
That Appendix A, Community Need Summary - Health Facilities be approved as
presented and form the basis of the 2022-2026 Financial Plan.
CARRIED**

6.2. [21-718](#) 2022 Service Planning - Affordable Housing

K. Lorette spoke to Item 6.2.

Discussion ensued on the following:

- accommodating the increased cost expectancies
- the number of units expected to be ready by 2025
- positioning the Housing Department so they are ready for growth

Director Blackwell left the meeting at 3:15 pm.

**MOVED by Director Orr, SECONDED by Director Screech,
The Hospitals and Housing Committee recommends the Committee of the Whole
recommend to the Capital Regional District Board:
That Appendix A, Community Need Summary - Affordable Housing be approved
as presented and form the basis of the 2022-2026 Financial Plan.
CARRIED**

6.3. [21-670](#) Mortgage Renewal - Cairns Park

K. Lorette spoke to Item 6.3.

**MOVED by Director Screech, SECONDED by Director Holman,
The Hospitals and Housing Committee recommends to the Capital Region
Housing Corporation Board:
1) That the resolution required by BC Housing Management Commission to renew
the mortgage for Cairns Park for a term not to exceed the expiry of the existing
operating agreement be approved; and
2) That the Chief Administrative Officer and Chief Financial Officer be authorized
to sign any documents related to the mortgage renewal.
CARRIED**

6.5. [21-708](#) Regional Housing First Program: Project Update, Third Quarter 2021

K. Lorette spoke to Item 6.5.

Discussion ensued on the following:

- future planning once the Regional Housing First Program is complete
- acquiring completed builds
- balance of allocations

Director Haynes left the meeting at 3:37 pm

**MOVED by Director Murdoch, SECONDED by Director Screech,
The Hospitals and Housing Committee recommends to the Capital Regional
District Board:**

**That the Regional Housing First Program: Project Update, Third Quarter 2021
report be received for information.**

CARRIED

6.6. [21-716](#) Capital Region Housing Corporation Operational Update No. 3, 2021

K. Lorette spoke to Item 6.6.

Discussion ensued on the following:

- the construction start date for Michigan Square
- the tenant relocation policy
- contributors to vacancy rates

**MOVED by Director Screech, SECONDED by Director Orr,
The Hospitals and Housing Committee recommends to the Capital Region
Housing Corporation Board:**

**That the Capital Region Housing Corporation Operational Update No. 3, 2021
report be received for information.**

CARRIED

**6.7. [21-709](#) Capital Region Housing Corporation Major Capital Plan Status Report
Third Quarter, 2021**

K. Lorette spoke to Item 6.7.

**MOVED by Director Screech, SECONDED by Director Murdoch,
The Hospitals and Housing Committee recommends to the Capital Region
Housing Corporation Board:**

**That the Capital Region Housing Corporation Major Capital Plan Status Report
Third Quarter, 2021 be received for information.**

CARRIED

7. Correspondence

- 7.1. [21-733](#) Letter from Mayor Helps, dated September 20, 2021 re: Council Motion - Acquisition and Operation of Older Rental Stock

K. Lorette spoke to Item 7.1.

**MOVED by Director Loveday, SECONDED by Director Orr,
That the correspondence be received for information.
CARRIED**

8. Notice(s) of Motion

There were no Notice(s) of Motion.

9. New Business

There was no new business.

10. Adjournment

**MOVED by Director Screech, SECONDED by Director Murdoch,
That the October 6, 2021 Hospitals and Housing Committee meeting be adjourned
at 3:50 pm.
CARRIED**

CHAIR

RECORDER



Making a difference...together

REPORT TO HOSPITALS AND HOUSING COMMITTEE MEETING OF WEDNESDAY, NOVEMBER 03, 2021

SUBJECT **4734, 4744, 4754 Elk Lake Drive Housing Agreement and Bylaw**

ISSUE SUMMARY

The Capital Regional District (CRD) Board must approve a bylaw that enables it to enter into a housing agreement with a developer in order to administer 43 below-market home ownership units at a housing development proposed for 4734, 4744 and 4754 Elk Lake Drive in the District of Saanich.

BACKGROUND

The CRD currently administers the resale control agreements on a number of below-market home ownership units within housing developments throughout the region.

The CRD's Regional Housing Division has been in discussions with the District of Saanich and Doral Development Projects Ltd. (the Developer), also known as Doral Development Ltd., regarding a proposed housing development that will include 43 resale price-restricted, below-market housing units as part of the project. The District of Saanich and the Developer have requested the CRD administer resales of the below-market units.

The units are part of a proposed 242 unit development located at 4734, 4744 and 4754 Elk Lake Drive in the District of Saanich. The terms of the Housing Agreement (Appendix A) and Bylaw (Appendix B) require all sales of below-market units be restricted to a sale price no higher than 85% of market value, as determined by an appraisal. Initial and subsequent sales will require a qualifying income level, which can be responsive to market conditions as they relate to increases in cost of living as determined by Statistics Canada but based on BC Housing guidelines.

A resale control and administrative procedure based on best practice has been prepared within the Agreement to ensure the units may only be sold as described, and, in cases of hardship, may be rented at a below-market rate for up to two years at which time they must be re-occupied with an approved occupant or relisted for sale. The Agreement provides for cost-recovery measures to pay for the CRD's administrative services. Staff are taking the same resale control approach consistent with projects previously approved by the CRD Board whereby the CRD may take control in its own name in order to administer the provisions for any below market unit.

The District of Saanich and the Developer have requested the CRD adopt this Agreement as a covenant and housing agreement within Section 483 of the *Local Government Act*, which further requires the CRD do so by way of bylaw.

ALTERNATIVES

Alternative 1

The Hospitals and Housing Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4459, "Resale Control and Housing Agreement Bylaw (4734, 4744, 4754 Elk Lake Drive), 2021" be introduced and read for a first, second and third time; and
2. That Bylaw No. 4459 be adopted.

Hospitals and Housing Committee – November 3, 2021

4734, 4744, 4754 Elk Lake Drive Housing Agreement and Bylaw

Alternative 2

That the 4734, 4744, 4754 Elk Lake Drive Housing Agreement and Bylaw report be referred back to staff for additional information based on Hospitals and Housing Committee direction.

IMPLICATIONS

Financial Implications

The CRD is assessing a one-time fee to the Developer to cover CRD costs associated with setting up the Housing Agreement and facilitating the approval of the bylaw. Administration of the resale control function and ensuring compliance with use of the affordable units has a cost associated with it, charged as a fee to the buyer of 0.5% of the gross selling price at completion (e.g., \$1,500 on a \$300,000 sale). Staff review and monitor the administration of previously approved projects on the basis of the amount of staff time and other resources in order to ensure full cost recovery for the provided service. The administration fee will change with market fluctuations.

Social Implications

For the moderate income households who become able to purchase and occupy these units, the economic implications of home ownership will be significant. The measure of resale control allows them to build a modest level of equity while also providing them with security of tenure.

Legal Implications

The properties' rezoning is not yet final. Should the rezoning fail, CRD's practice is to repeal the associated housing agreement bylaw and discharge the covenant on the Developer's request.

CONCLUSION

The CRD has experience unique in the region, and the potential to enter into agreements with developers to administer the sale of affordable home ownership units aligns with the goals and objectives of the Regional Housing Affordability Strategy. The Developer and CRD staff have negotiated the Agreement, which includes the terms of use and matters related to the resale of units, and the Developer has executed the Agreement. The CRD has developed administrative procedures that ensure unit use conforms to the Agreement terms, provides greater authority for the CRD to act when use is non-conforming and provides the CRD adequate cost recovery for the provision of the program.

RECOMMENDATION

The Hospitals and Housing Committee recommends to the Capital Regional District Board:

1. That Bylaw No.4459, "Resale Control and Housing Agreement Bylaw (4734, 4744, 4754 Elk Lake Drive), 2021" be introduced and read for a first, second and third time; and
2. That Bylaw No. 4459 be adopted.

Submitted by:	Don Elliot, MUP, Senior Manager, Regional Housing
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

Appendix A: Section 219 Covenant and Housing Agreement
Appendix B: Capital Regional District Bylaw No. 4459



Land Title Act

Charge

General Instrument – Part 1

1. Application

COX TAYLOR
Barristers and Solicitors
3rd Floor, 26 Bastion Square
Victoria BC V8W 1H9
250-388-4457

File No.
 Ref:

2. Description of Land

PID/Plan Number	Legal Description
005-536-243	AMENDED LOT 2 (DD 233498-I), SECTION 110, LAKE DISTRICT, PLAN 8316
002-349-892	AMENDED LOT 1 (DD 233499I) SECTION 110, LAKE DISTRICT, PLAN 8316
006-292-356	PARCEL "A" (DD S13027), OF LOT 1, SECTION 108, LAKE DISTRICT, PLAN 3255

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Page 7, Section 2.1
OPTION TO PURCHASE		Page 13, Section 3
RENT CHARGE		Pages 12-13, Section 2.4.2

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

DORAL DEVELOPMENT PROJECTS LTD., NO.BC0276172

6. Transferee(s)

CAPITAL REGIONAL DISTRICT
625 FISGARD STREET
VICTORIA BC V8W 1R7

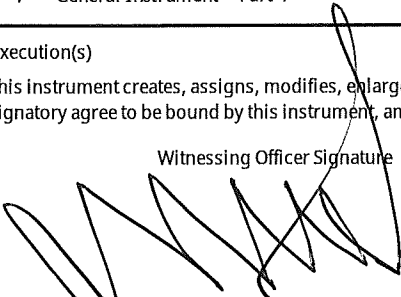
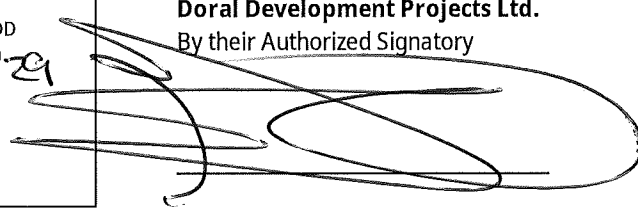
7. Additional or Modified Terms



Land Title Act
Charge
 General Instrument – Part 1

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.

<p>Witnessing Officer Signature</p>  <p>JOHN H. BAYNTON <i>Barrister & Solicitor</i> 4520 West Saanich Road Victoria, B.C. V8Z 3G4 CANADA</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> YYYY-MM-DD 2021/09/29 </div>	<p>Transferor Signature(s)</p> <p>Doral Development Projects Ltd. By their Authorized Signatory</p> 
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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.

<p>Witnessing Officer Signature</p> <hr style="border: 0; border-top: 1px solid black; width: 200px; margin: 0;"/>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> YYYY-MM-DD </div>	<p>Transferor Signature(s)</p> <p>Capital Regional District By their Authorized Signatory</p> <hr style="border: 0; border-top: 1px solid black; width: 200px; margin: 0;"/>
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Officer Certification

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

Electronic Signature

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

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT AND HOUSING AGREEMENT

WHEREAS:

- A. Doral Developments Ltd. (the “**Developer**”) is the registered owner of the Lands described in Item 2 of Part 1 of this General Instrument and the Developer intends to complete two hundred forty-two (242) units on the Lands (the “**Strata Development**”) and shall designate forty-three (43) affordable in perpetuity units, comprising of 17 studio units, 7 one-bedroom units; 10 one-bedroom and den units; 8 two-bedroom units; and 1 two-bedroom and den unit, of the strata lots to be created by the strata plan for the Strata Development as the Affordable Units to which strata lots this Agreement will apply.
- B. The Developer intends to build the Affordable Unit to ensure the availability of affordable housing in Saanich, British Columbia.
- C. To ensure that the Affordable Unit continues to be available as affordable housing, the Developer has agreed to grant the Capital Regional District (“**CRD**”):
 - (a) a covenant under Section 219 of the *Land Title Act* (the “**Covenant**”) and a housing agreement under Section 483 of the *Local Government Act* setting out, amongst other things, the procedure to be followed in connection with any sale of an Affordable Unit as well as restrictions on the sale price on use and rental of the Affordable Unit;
 - (b) an option to purchase an Affordable Unit if it is sold, rented or used in breach of the Covenant; and
 - (c) Notice of Housing Agreement:

For clarity, the Developer and Owner acknowledges and agrees that:

- (i) this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement entered into under Section 483 of the *Local Government Act*;
- (ii) the CRD is required to file a notice of housing agreement in the Land Title Office against title to the Land; and
- (iii) once such notice is filed, this Agreement binds all persons who acquire an interest in the Land as a housing agreement under Section 483 of the *Local Government Act*.

NOW THEREFORE in consideration of the mutual covenants set out below and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each of the parties), the parties agree as follows:

SECTION 1. INTERPRETATION

1.1 **Definitions.** In this Agreement:

- 1.1.1 "Affordable Unit" or "Affordable Units" shall mean the forty-three (43) strata lots, comprising of 17 studio units, 7 one-bedroom units; 10 one-bedroom and den units; 8 two-bedroom units; and 1 two-bedroom and den unit, to be designated by the Developer within the Strata Development as the strata lots to which this Agreement shall apply;
- 1.1.2 "Affordable Rate" means a rate determined from time-to-time by the NPO in its sole discretion with reference to BC Government guidelines, if any;
- 1.1.3 "Agreement" means Parts 1 and 2 of this General Instrument;
- 1.1.4 "Appraisal" has the meaning stated in Section 2.2;
- 1.1.5 "Appraisal Review Period" has the meaning stated in Section 2.2.4.1;
- 1.1.6 "Appraiser" means an appraiser accredited by the Appraisal Institute of Canada and duly qualified to appraise an Affordable Unit and on an approved list maintained by the NPO, if any;
- 1.1.7 "Approved Lender" means an "approved lender" (as defined in the *National Housing Act*, R.S.C. 1985, c. N-11) which holds an Insured Mortgage of an Affordable Unit;
- 1.1.8 "Below Market Value" means 85% of the Fair Market Value of the Affordable Unit from time to time;
- 1.1.9 "Business Day" means any day other than Saturday, Sunday or a statutory holiday in the Province of British Columbia;
- 1.1.10 "Closing Date" means the 30th day after the Notice Date, or the first Business Day thereafter that the LTO is open for business to the public;
- 1.1.11 "CMHC" means Canada Mortgage and Housing Corporation or any successor thereto;
- 1.1.12 "Covenant" has the meaning stated in Recital C and is the covenant set out in Section 2.1;
- 1.1.13 "CRD" has the meaning stated in Recital C;
- 1.1.14 "Developer" has the meaning stated in Recital A;
- 1.1.15 "Environmental Law" means any applicable federal, provincial or municipal laws pertaining to the presence, handling, release or removal of Hazardous Substances;

- 1.1.16 "Fair Market Value" of an Affordable Unit means the purchase price from time to time which a willing purchaser would pay to a willing vendor, dealing at arm's length from each other, for an Affordable Unit, unencumbered with the exception of Permitted Encumbrances and without the benefit of a parking stall or other parking entitlement;
- 1.1.17 "General Instrument - Part 1" means the General Instrument - Part 1 to which this Terms of Instrument - Part 2 is attached;
- 1.1.18 "Hazardous Substances" collectively means contaminants, pollutants or other substances which are hazardous or dangerous to the health of humans, animals or plants or to the environment and includes substances defined as hazardous substances or special waste under any law, regulation or order of a Statutory Authority;
- 1.1.19 "Immediate Family" means grandparent, parent, sibling, spouse, common-law partner, son or daughter;
- 1.1.20 "Insured Mortgage" means a mortgage insured pursuant to the *National Housing Act*, R.S.C. 1985, c. N-11;
- 1.1.21 "LTO" means the Land Title Office for the jurisdiction in which an Affordable Unit is located;
- 1.1.22 "Notice" means any written notice which CRD may deliver to the Owner under Section 3.3, exercising the Option;
- 1.1.23 "Notice Date" means the day on which the Owner is deemed by Section 6.2 to have received the Notice;
- 1.1.24 "NPO" means the Capital Region Housing Corporation or other non-profit housing organization or Person retained by CRD from time to time to administer the sale of the Affordable Units and to manage the rental of the Affordable Units;
- 1.1.25 "NPO Appraisal" has the meaning stated in Section 2.2.4.1;
- 1.1.26 "Offer" has the meaning stated in Section 2.2;
- 1.1.27 "Option" means the option to purchase granted by the Developer and the Owner to CRD under Section 3.1;
- 1.1.28 "Option Purchase Price" means:
- (1) 95% of the Below Market Value; or
 - (2) if the Owner has granted a bona fide arm's length mortgage or mortgages of the Affordable Unit to an Approved Lender which, as at the Closing Date, secures in aggregate an amount which exceeds 95% of the Below Market Value, the amount owing under and required to discharge the mortgage or mortgages to the Approved Lender as at the Closing Date;

- 1.1.29 "Owner" means the registered owner of an Affordable Unit from time to time and includes the Developer in its capacity as developer of the Affordable Units until the first conveyance to a Qualified Buyer, and their respective heirs, legal representatives, successors and assigns;
- 1.1.30 "Permitted Encumbrances" means those charges or encumbrances stated in Schedule "A" and any other encumbrances approved as required by the District of Saanich or Developer from time to time to complete the Strata Development or as in writing by CRD but shall not include any mortgage or other financial encumbrance and shall not include this Agreement;
- 1.1.31 "Person" means any individual, society, corporation, partnership, trustee, administrator, legal representative, Statutory Authority or other legal entity;
- 1.1.32 "Personal Property" means all lighting fixtures, appliances, equipment, cabinetry, affixed carpeting, drapes and blinds located within an Affordable Unit (except to the extent otherwise agreed in writing by CRD) but does not include an Owner's personal effects;
- 1.1.33 "Proceeding" has the meaning stated in Section 2.3.1;
- 1.1.34 "Project" means the Strata Development of which the Affordable Units will be a part and comprises all of the Lands referred to in Item 2 of the General Instrument - Part 1;
- 1.1.35 "Property" means the Affordable Unit and all Personal Property within the Affordable Unit;
- 1.1.36 "Qualified Buyer" means an individual who meets the criteria stated in Schedule "B";
- 1.1.37 "Statutory Authority" means any federal, provincial or municipal governmental authority which has jurisdiction over any matter referred to in this Agreement;
- 1.1.38 "Term" means the period commencing on the date of registration of this Agreement in the LTO and ending on the earlier of (a) the date which is ninety-nine (99) years thereafter, and (b) the date of any destruction or statutorily deemed destruction of the Project;
- 1.1.39 "Transaction" means the transfer of an Affordable Unit from the Owner to CRD;
- 1.1.40 "Transfer" means an instrument in a statutorily prescribed form by which the Owner transfers title to the Affordable Unit to CRD.
- 1.2 **Time**. Time will be of the essence of this Agreement. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. If a time is specified in this Agreement for observing or performing any obligation, such time will be local time in Victoria, British Columbia.
- 1.3 **Governing Law**. This Agreement will be governed by and construed and enforced in

accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia.

- 1.4 **References.** In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.
- 1.5 **Construction.** The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit or aid in the interpretation of this Agreement. The wording of this Agreement will be construed simply, according to its fair meaning, and not strictly for or against any party.
- 1.6 **Validity of Provisions.** If a Court of competent jurisdiction finds that any provision contained in this Agreement is invalid, illegal or unenforceable, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement which will be construed as if such invalid, illegal or unenforceable provision had never existed and such other provisions will be enforceable to the fullest extent permitted at law.
- 1.7 **No Waiver.** Failure by either party to exercise any of its rights, powers or remedies hereunder or its delay to do so, will not be interpreted as a waiver of those rights, powers or remedies except in the case of a written waiver. No waiver of a particular right will be deemed to be a waiver of that right in any other instance or a waiver of any other right.
- 1.8 **Statutes.** Any reference to a statute and to any regulations under that statute means the statute and regulations as amended or replaced from time to time.
- 1.9 **Remedies.** Any party to this Agreement, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement. No reference to or exercise of any specific right or remedy under this Agreement or at law or in equity by any party will prejudice or preclude that party from exercising any other such right or remedy. No such right or remedy will be exclusive or dependent upon any other such right or remedy, but any party, from time to time, may exercise any one or more of such rights or remedies independently, successively or in combination. 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.
- 1.10 **Schedules.** The following Schedules are attached to and form integral parts of this Agreement:

Schedule "A" Permitted Encumbrances
Schedule "B" Qualified Buyer Criteria

SECTION 2. SECTION 219 COVENANT

- 2.1 **Covenant.** The Owner hereby covenants with CRD that:
 - (a) the Affordable Unit will not be sold, assigned or otherwise transferred otherwise than:

- (i) to a Qualified Buyer;
 - (ii) for a selling price not greater than the Below Market Value;
 - (iii) subject to the Covenant and the Option; and
 - (iv) in a way which complies with Section 2.2, or to CRD under Section 3;
- (b) the Affordable Unit will not at any time be subject to a conventional high ratio mortgage or mortgages which, in total, secure an amount which exceeds 95% of the Below Market Value; and
- (c) the Owner shall not permit (whether by renting or otherwise) any person other than the Owner and members of the owner's Immediate Family to occupy the Affordable Unit, and shall not use or permit the premises to be used solely for conducting a business or profession,

and the Owner and CRD agree that, subject to Section 2.3 the covenant set out above will be registered as a charge against the Affordable Unit and run with the Affordable Unit for the Term.

2.2 **Procedure for Sale of Affordable Unit.**

2.2.1 **Owner Notifies NPO of Intention to Sell.**

If at any time after the first conveyance of an Affordable Unit by the Developer, the Owner wishes to sell, assign or otherwise transfer the Affordable Unit, the Owner will do so in accordance with a bona fide arm's length agreement of purchase and sale (or as a court may order in a proceeding to enforce a mortgage of the Affordable Unit) and the Owner will, prior to:

- (a) listing or offering the Affordable Unit for sale; or
- (b) accepting an offer to purchase the Affordable Unit,

deliver to the NPO written notice of their intention to sell an Affordable Unit, such notice to be in the form required by the NPO.

2.2.2 **Owner Retains Appraiser.**

Within 7 days after the Owner notifies the NPO of their intention to sell an Affordable Unit, the Owner will select an Appraiser to be retained by the Owner to undertake an appraisal (the "Owner Appraisal") of the Fair Market Value of the Affordable Unit. The Owner will deliver a copy of the Owner Appraisal to the NPO within 7 days after the Owner receives the Owner Appraisal.

2.2.3 **Owner and NPO Agree on Maximum Selling Price.**

If the Owner and the NPO agree within 7 days after the Owner Appraisal is delivered

to the NPO that the Fair Market Value of the Affordable Unit is as stated in the Owner Appraisal, the Fair Market Value stated in the Owner Appraisal, less 15%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the Owner Appraisal.

2.2.4 Owner and NPO Do Not Agree on Maximum Selling Price.

2.2.4.1 If the Owner and the NPO do not agree within 7 days (the "Appraisal Review Period") after the Owner Appraisal is delivered to the NPO that the Fair Market Value of the Affordable Unit is as stated in the Owner Appraisal, the NPO will retain its own Appraiser to undertake an appraisal (the "NPO Appraisal") of the Fair Market Value of the Affordable Unit in which case the average of the Fair Market Value stated in the Owner Appraisal and the NPO Appraisal, less 15%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the NPO Appraisal.

2.2.4.2 The NPO will deliver a copy of the NPO Appraisal to the Owner within 7 days after the NPO receives the NPO Appraisal.

2.2.4.3 If the NPO Appraisal is not delivered to the Owner within 30 days after the end of the Appraisal Review Period, the Fair Market Value stated in the Owner Appraisal, less 15%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the Owner Appraisal.

2.2.5 Owner Responsible for Appraisal Costs.

The Owner will be responsible for the cost of both the Owner Appraisal and the NPO Appraisal. If the cost of the NPO Appraisal is initially paid by the NPO, the Owner will reimburse the NPO for the cost of the NPO Appraisal within 30 days after demand by the NPO. If any amount owed by the Owner to the NPO with respect to the NPO Appraisal is not paid prior to the completion of the sale of the Affordable Unit by the Owner, a portion of the sale proceeds equal to the amount owing to the NPO will be deemed to have been irrevocably assigned by the Owner to the NPO.

2.2.6 NPO Notifies Owner of Maximum Selling Price.

Within 7 days after the Fair Market Value of the Affordable Unit has been determined under Section 2.2.3 or 2.2.4, the NPO will notify the Owner of the maximum price, determined under Section 2.2.3 or 2.2.4, at which time the Owner will be permitted to offer to sell the Affordable Unit, which price shall be deemed to be its Below Market Value.

2.2.7 Owner to Deliver True Copy of Sale Contract to NPO.

The Owner will immediately deliver a true copy of any contract of purchase and sale which the Owner may enter into with respect to the sale of the Affordable Unit or any interest therein (the "Sale Contract"). The Owner will deliver to the NPO with the Sale

Contract, or upon the request of the NPO, such information with respect to the buyer named in the Sale Contract as the NPO may reasonably require to determine whether the buyer is a Qualified Buyer.

2.2.8 Terms to be Included in Sale Contract.

The Sale Contract will be in writing and will:

- (a) be for a selling price not greater than the Below Market Value of the Affordable Unit;
- (b) be subject to the NPO determining and notifying the Owner in writing (within a period of 10 Business Days after the NPO receives a true copy of the Sale Contract) that (1) the Owner has complied with the requirements of this Section 2.2, and (2) the buyer is a Qualified Buyer, failing which the Sale Contract will be null and void; and
- (c) include a statement that the buyer agrees to purchase the Affordable Unit subject to the Covenant, the Option and all other terms of this Agreement.

2.2.9 No Sale after 6 Months Without New Appraisal.

The NPO will not be obligated to review or make any determination with respect to a Sale Contract as stated in subsection 2.2.8(b) above if the date of receipt by the NPO of a true copy of the Sale Contract and any other information required by the NPO under Section 2.2.7 is after the expiry of the 6 month period during which the Owner is permitted to sell the Affordable Unit. If the 6 month period has expired, the process under Section 2.2 will begin again, with the Owner giving fresh notice to the NPO of their intention to sell the Affordable Unit.

2.2.10 CRD Will Notify Owner of Change in NPO.

CRD will notify the Owner in writing of any appointment or replacement of an NPO and of the address to which notices to the NPO will be sent.

2.2.11 Fee to NPO

The NPO will be entitled to payment of a fee equal to 0.5% of the gross selling price of an Affordable Unit, such fee to be paid on closing of the sale of such Affordable Unit by the Owner and a portion of the sale proceeds equal to the amount owing to the NPO will be deemed to have been irrevocably assigned by the Owner to the NPO.

2.3 Procedure for Foreclosure.

2.3.1 CRD Right to Market and Sell.

If the Approved Lender or CMHC commences a foreclosure proceeding (the "Proceeding") under an Insured Mortgage of the Affordable Unit the Owner covenants and agrees with CRD that:

- (a) the Owner shall notify CRD of the Proceeding;
- (b) at the time which is the midpoint of any redemption period (the "Redemption Period") ordered in the Proceeding, CRD shall have the right and may apply for an order in the Proceeding, unopposed by the Owner, to market and sell the Affordable Unit in accordance with Section 2.1(a)(i), (ii), (iii) and (iv);
- (c) on receipt of the order in the Proceeding under Section 2.3.1(b) CRD shall have the right to enter into an agreement with a licensed realtor to market and sell the Affordable Unit at the prevailing commission or fee; and
- (d) the Owner shall provide reasonable access to the Affordable Unit by CRD, the licensed realtor and any prospective purchaser of the Affordable Unit for the purpose of repairing, cleaning, appraising, marketing and selling the Affordable Unit.

2.3.2 CMHC Notice to CRD.

In the event that CRD does not sell the Affordable Unit pursuant to Section 2.3.1, CMHC or the Approved Lender may, 120 days after expiry of the Redemption Period ordered in the Proceeding, issue a 30 day notice (the "Notice Period") to CRD to redeem the Insured Mortgage. In the event that CRD does not redeem the Insured Mortgage within the Notice Period, CRD shall cause this Agreement to be discharged from title to the Affordable Unit at the LTO within 7 days of expiry of the Notice Period.

2.3.3 CMHC Sale.

In the event that the Affordable Unit is sold by the Approved Lender or CMHC after discharge of this Agreement from title to the Affordable Unit and such sale generates funds in excess of the balance owing under the Insured Mortgage and related costs, including charges, taxes, commissions and utilities regarding the Affordable Unit, such excess funds shall forthwith be paid to CRD, for its own use absolutely. This Section 2.3.3 shall bind the Owner, the Approved Lender, CMHC (where CMHC has a mortgage loan insurance policy in force for the Affordable Unit) and CRD both before and after discharge of this Agreement from title to the Affordable Unit.

2.4 Procedure for Rental and Recovery of Rent Charges.

2.4.1 Rental Prohibited.

2.4.1.1 All rentals of the Affordable Units are prohibited, except:

- (a) In the case of hardship, as decided by the NPO in its sole discretion, and on making an application to the NPO in the form provided by the NPO, if any, an Affordable Unit may be rented at an Affordable Rate for a period no shorter than six months; or
- (b) If a qualified buyer cannot be located, as decided by the NPO in its sole

discretion, and on making an application to the NPO in the form provided by the NPO, if any, an Affordable Unit may be rented at an Affordable Rate for a period no shorter than six months.

2.4.1.2 The maximum term of any rental shall be two years, at which point the Affordable Unit must be listed for sale in accordance with section 2.2. Rental may continue at an Affordable Rate at the discretion of the NPO. If hardship continues or a qualified buyer cannot be located after this listing, additional sales listings may be required at any time at intervals decided by the NPO at its discretion.

2.4.1.3 Any tenancy shall be governed by an agreement under the *Residential Tenancy Act* (BC) which shall include the following provisions:

- (a) permitting the Owner to terminate the tenancy agreement in accordance with the *Residential Tenancy Act* if the tenant uses or occupies, or allows use or occupation of, the Affordable Unit in breach of the use or occupancy restrictions contained in this Agreement;
- (b) explicitly prohibiting the assignability, sub-letting, and use of the Affordable Unit for short term vacation rentals;
- (c) explicitly specifying that only persons named in the tenancy agreement may occupy the Affordable Unit;
- (d) providing that the Owner will have the right, at its option, to terminate the tenancy agreement should the tenant remain absent from the Affordable Unit for three consecutive months or longer, notwithstanding the timely payment of rent;
- (e) prohibiting guests residing in the Affordable Unit for more than 30 days, whether or not consecutive, in any 12 month period without the prior written consent of the Owner; and
- (f) prohibiting use of the Affordable Unit for non-residential rentals, assignments, sub-lets, licenses and uses, such as vacation rentals, including such services as AirBNB or Vacation Rental By Owner, short term licenses, or short-stay use of any kind, and business-only premises.

2.4.1.4 The Owner will terminate the tenancy if the tenant uses or occupies, or allows use or occupancy in breach of the use and occupancy restrictions in this Agreement.

2.4.2 Rent Charge and Acknowledgement.

2.4.2.1 The Owner acknowledges that the CRD requires affordable housing to ensure prosperity and economic growth for the residents of the Capital Region. The Owner acknowledges the purpose of the Affordable Unit is to provide affordable

housing to residents of the Capital Region, and it is not to be used for a short term vacation rental or left as a vacant home. The Owner therefore agrees that for each day an Affordable Unit is occupied in breach of this Agreement, the Owner will pay to the CRD \$150 for each day on which the breach has occurred and continues to occur, as liquidated damages and not as a penalty, due and payable at the offices of the CRD on the last day of the calendar month in which the breach occurred. The \$150 per day amount will increase on January 1 of each year by the amount calculated by multiplying the amount per day payable on the previous January 1 by the percentage increase between that previous January 1 and the immediately preceding December 31 in the CPI.

2.4.2.2 The Owner hereby grants to the CRD a rent charge under s. 219 of the *Land Title Act* (British Columbia), and at common law, securing payment by the Owner to the CRD of the amount payable by the Owner pursuant to section 2.4.2 of this Agreement. The Owner agrees that the CRD, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the CRD in law or in equity.

SECTION 3. OPTION TO PURCHASE

- 3.1 **Option to Purchase.** The Owner hereby grants CRD an exclusive and irrevocable option to purchase the Affordable Unit during the Term at the Option Purchase Price in accordance with Sections 3 and 4.
- 3.2 **Exercise of Option.** CRD may exercise the Option only if the Owner:
- (a) defaults in its obligations under Sections 2.1 or 2.2; or
 - (b) acquired the Affordable Unit from a previous Owner for a price which was, as of the date of closing of that transaction, greater than the Below Market Value or if the Owner was not, as of that date, a Qualified Buyer; or
 - (c) defaults in its obligations under any mortgage of the Affordable Unit.
- 3.3 **Method of Exercise of Option.** CRD may exercise the Option by delivering Notice of exercise of the Option to the Owner.
- 3.4 **Effect of Exercise of Option.** From and after the Notice Date, this Agreement and the Notice will together constitute a binding and enforceable contract between the Owner and CRD for the purchase and sale of the Affordable Unit in accordance with the terms and conditions of Section 4.

SECTION 4. PURCHASE AND SALE

- 4.1 **Purchase and Sale.** Subject to the terms and conditions of this Section 4 and relying on the

warranties and representations herein set out, the Owner agrees to sell and CRD agrees to purchase the Affordable Unit on the Closing Date for the Option Purchase Price, and the Owner agrees that, at the request of CRD, it will transfer registered title to the Affordable Unit to CRD or such other Person as CRD may designate.

- 4.2 **Option Purchase Price.** CRD will pay the Option Purchase Price, subject to adjustment pursuant to Section 4.10, to the Owner on the Closing Date.
- 4.3 **Repair and Maintenance.** From and after the Notice Date to the Closing Date, the Owner will take good care of the Property, will carry out all necessary repairs, maintenance, and replacements, will take reasonable care to protect and safeguard the Property and will in all other respects deal with the Property so that the warranties and representations of the Owner set out in this Agreement remain true and correct.
- 4.4 **Insurance.** From and after the Notice Date to the Closing Date, the Owner will ensure that all policies of insurance with respect to the Property remain in full force and effect.
- 4.5 **Risk.** The Property will be at the risk of the Owner up to the time the Transfer is submitted for registration at the LTO on the Closing Date and will be at the risk of CRD after the time the Transfer is submitted for registration at the LTO on the Closing Date.
- 4.6 **Damage.** If, prior to the time the Transfer is submitted for registration at the LTO, any damage occurs to the Property or any of the assets comprising the Property, CRD, by notice to the Owner, may elect to postpone the Closing Date for a period of not more than 30 days and may also elect:
 - (a) not to acquire the Affordable Unit, in which case neither party will have any further obligation to the other under this Section 4 pertaining to that particular Notice; or
 - (b) that the Owner assign to CRD the Owner's right to receive any and all insurance proceeds payable with respect to the damage, subject to any bona fide loss payee designation, in which case the Owner will execute and deliver to CRD an assignment satisfactory to CRD.
- 4.7 **Construction Warranties.** From and after the Closing Date, the Owner will assign to CRD all the Owner's rights under all warranties, guarantees or contractual obligations against any contractor or supplier who was engaged in the construction, renovation, or repair of all or any part of the Affordable Unit or any improvement to the Affordable Unit. CRD's acceptance of this assignment will not represent a waiver by CRD of the Owner's covenants, agreements, representations and warranties set out in this Agreement.
- 4.8 **Owner's Covenants.** The Owner will:
 - (a) take all proper actions and proceedings on its part to enable the Owner to transfer a good and marketable title to the Affordable Unit to CRD or such Person as CRD may designate, free and clear of all encumbrances other than Permitted Encumbrances;
 - (b) deliver vacant possession of the Property to CRD or such Person as CRD may designate on the Closing Date, subject to prior receipt of the Option Purchase Price

by the Owner;

- (c) not, from and after the Notice Date to the Closing Date, sell, transfer, dispose of or remove from the Affordable Unit any Personal Property; and
 - (d) both before and after the Closing Date do such other things as CRD may reasonably require for transferring to and vesting in CRD or such Person as CRD may designate title to the Affordable Unit as contemplated by this Section 4.
- 4.9 **Documents.** CRD will prepare the documents necessary to complete the Transaction which will be in a form and substance reasonably satisfactory to CRD and its lawyers.
- 4.10 **Adjustments and Credits.** The Owner and CRD will adjust, as at the Closing Date, all usual adjustments for a property similar to the Property including taxes, utility rates and any moneys owing to the strata corporation formed in respect of the Project.
- 4.11 **Closing.** The Owner and CRD will complete the Transaction on the Closing Date at the offices of CRD or its lawyers.
- 4.12 **Owner's Closing Documents.** At the closing, the Owner will deliver to CRD the following duly executed documents:
- (a) the Transfer;
 - (b) a vendor's statement of adjustments;
 - (c) a bill of sale for the Personal Property and all other deeds, transfers, assignments, resolutions, consents, estoppels and other certificates and assurances as CRD may reasonably require;
 - (d) a certificate in confirmation that the sale of the Affordable Unit to CRD is exempt from taxes under the *Excise Tax Act* (the "GST") or, alternately, a certified cheque or bank draft payable to CRD in an amount equal to the GST payable by CRD on the Option Purchase Price; and
 - (e) unless waived in writing by CRD, a certified cheque or bank draft payable to CRD in the amount, if any, by which the moneys owing under and required to discharge any mortgage or mortgages of the Affordable Unit exceed the Option Purchase Price (calculated in accordance with Section 1.1.28(2)), as adjusted under Section 4.10.
- 4.13 **CRD's Closing Documents.** At the closing, CRD will deliver to the Owner:
- (a) a purchaser's statement of adjustments; and
 - (b) a cheque for the Option Purchase Price, as adjusted under Section 4.10.
- 4.14 **Tabling.** Except for the Transfer, all documents and cheques will be tabled at the closing. CRD will cause its lawyers, on the Closing Date, to conduct a pre-registration index search of the Affordable Unit at the LTO. If that search indicates that no liens, charges or encumbrances

have been registered or filed in respect of the Affordable Unit except for Permitted Encumbrances and encumbrances which the lawyers for the Owner have undertaken to discharge, the lawyers for CRD or their agents shall submit the Transfer for registration and then conduct a post-filing registration index search. If that search indicates that no liens, charges or encumbrances have been registered or filed in respect of the Affordable Unit since the pre-filing registration index search, all documents and payments will be released to each of the Owner and CRD according to the entitlement of each of them.

- 4.15 **Reimbursement.** If CRD waives payment on the Closing Date of the amount referred to in Section 4.12(e), the Owner shall pay such amount to CRD, on demand, with interest thereon at the rate of eighteen percent (18%) per annum, compounded monthly, from the Closing Date to the date of payment.
- 4.16 **Survival.** All the representations, warranties, covenants and agreements of the Owner and CRD contained in this Agreement will survive the Closing Date, registration of documents, and the payment of the Option Purchase Price.

SECTION 5. RELEASE

- 5.1 **Release.** The Owner releases CRD and its officers, directors, employees and agents and their respective heirs, executors, administrators, personal representatives, successors and assigns absolutely and forever, from any claims the Owner may have against all or any of them for costs, expenses or damages the Owner may suffer, incur or be put to arising out of or in connection with this Agreement and from all claims arising out of advice or direction respecting the sale of the Affordable Unit or use of the Property given to the Owner by any of them or by the NPO.

SECTION 6. GENERAL PROVISIONS

- 6.1 **Discharge of Covenant and Option to Purchase on Strata Lots not designated as Affordable Units.** The parties agree that this Agreement is intended to only apply to the strata lots to be designated by the Developer as the Affordable Units upon the filing of the strata plan for the Strata Development and concurrently with filing of the strata plan for the Strata Development this Covenant, the Rent Charge and the Option to Purchase shall be discharged from title to all of the strata lots and the common property except for the Affordable Units designated by the Developer, and this Agreement will only charge the Affordable Units. The parties will execute all such documents as may be required to complete the foregoing discharges.
- 6.2 **Notices.** Unless otherwise specified, each notice to the Owner must be given in writing and delivered personally or by courier to the Owner at its address shown on title to the Affordable Unit as registered in the LTO from time to time. Unless otherwise specified, each notice to CRD must be given in writing and delivered personally or by courier to CRD, Attention: Manager Real Estate Services, at the address shown on the General Instrument - Part 1 or to such other address or addresses or person or persons as CRD may designate. Notices will be deemed to have been received when delivered.

- 6.3 **Fees.** Each of the Owner and CRD will pay its own legal fees. CRD will pay all fees in connection with registration of the Transfer.
- 6.4 **Enuring Effect.** This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns as the case may be of the Owner and CRD, provided that the Owner shall not be liable for any breach of the covenant contained in Section 2.1 except as such liability relates to the period of ownership of an Affordable Unit by the Owner. If, by operation of statute or otherwise, the Option becomes or will within a period of three months become void or unenforceable as the result of the passage of time, the Owner or their heir, legal representative, successor or permitted assign, as the case may be, will, at the request of CRD, execute and deliver to CRD a replacement agreement substantially in the form of this Agreement.
- 6.5 **Registration.** This Agreement will be registered against title to the Lands initially and then shall be restricted to the titles to the Affordable Units upon filing of a strata plan of the Lands in the LTO subject only to Permitted Encumbrances.
- 6.6 **Discharge.** On expiry of the Term, the Owner may require that CRD execute and deliver to the Owner a release in registrable form of the Covenant and the Option.
- 6.7 **Amendment.** This Agreement may only be amended by written agreement of the parties.
- 6.8 **Counterparts.** This Agreement and any amendment, supplement, restatement or termination of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered is an original, but all of which taken together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have duly executed this Agreement by signing the General Instrument - Part 1

SCHEDULE "A"
PERMITTED ENCUMBRANCES

Legal Notations:

EK139123 - Permit under Part 29 of the Municipal Act
Easement 174116G

Charges, Liens and Interests:

Easement 174116G
Covenant EK115116

SCHEDULE "B"
QUALIFIED BUYER CRITERIA

1. Sale of an Affordable Unit by the Developer:

In the case of the sale of an Affordable Unit by the Developer, a Qualified Buyer means:

- (a) a first time home buyer, being a buyer who has not owned a principal residence for at least 5 years immediately prior to the date of purchase of an Affordable Unit;
- (b) a resident of the Capital Regional District from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;
- (c) A person who provides Proof of Income that their annual gross Income is, for at least one year immediately prior to the date of purchase of an Affordable Unit:
 - (i) for a studio, at most household gross income not exceeding the low-moderate income cut-off for families without children as set by BC Housing from time to time at time of sale, currently \$75,730 in 2021;
 - (ii) for a one bedroom or one bedroom plus den, is at most the middle income cut-off as set by BC Housing for families without children from time to time at the time of sale, currently \$112,410 in 2021;
 - (iii) for a two bedroom or two bedroom plus den, is at most the middle income cut-off as set by BC Housing for families with children from time to time at the time of sale, currently \$155,510 in 2021; and
- (d) a person who intends to immediately use and occupy the Affordable Unit as their principal residence and not rent or lease the Affordable Unit to any other person, nor leave the unit vacant, use it solely for a business or profession, or use it as a short-term vacation rental property of any kind,

it being understood and agreed that preferential consideration may be given to a person who meets all of the above criteria and all or some of the following criteria:

- (a) a person who does not own a vehicle; and
- (b) a person who satisfies such other criteria as may be applied by the NPO and CRD from time to time.

2. Sale of an Affordable Unit by an Owner other than the Developer:

In the case of the sale of an Affordable Unit by an Owner other than the Developer, a Qualified Buyer means:

- (a) a first time home buyer, being a buyer who has not owned a principal residence for at least 5 years immediately prior to the date of purchase of an Affordable Unit;

- (b) a resident of the Capital Regional District from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;
- (c) a person who provides Proof of Income that annual gross Income, for at least one year immediately prior to the date of purchase of an Affordable Unit:
 - (i) for a studio, at most household gross income not exceeding the low-moderate income cut-off for families without children as set by BC Housing from time to time at time of sale, currently \$75,730 in 2021,
 - (ii) for a one bedroom or one bedroom plus den, is at most the middle income cut-off as set by BC Housing for families without children from time to time at the time of sale, currently \$112,410 in 2021, or
 - (iii) for a two bedroom or two bedroom plus den, is at most the middle income cut-off as set by BC Housing for families with children from time to time at the time of sale, currently \$155,510 in 2021,

it being understood and agreed that the NPO may, in the event that BC Housing income limits are no longer available or no longer applicable to the continued use and availability of the Affordable Unit as affordable housing, the NPO may set annual gross Income limits in consultation with the District of Saanich, having regard to prevailing market conditions; and

- (d) a person who intends to immediately use and occupy the Affordable Unit as their principal residence and not rent or lease the Affordable Unit to any other person, nor leave the unit vacant, use it solely for a business or profession, or use it as a short-term vacation rental property of any kind.

For the purpose of Schedule B:

"Income" means the total income before income tax from all sources of all persons intending to live in an Affordable Unit including, without limitation:

- (a) all income from earnings, including commissions and tips;
- (b) all income from all public and private pension plans, old age security and guaranteed income supplement;
- (c) all income received under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*;
- (d) disabled veteran's allowance;
- (e) alimony;
- (f) child support;

- (g) workers' compensation benefits;
- (h) employment insurance; and
- (i) Income from Assets,

but excluding the following:

- (a) child tax benefit;
- (b) capital gains, such as insurance settlement, inheritances, disability awards and sale of effects in the year they are received;
- (c) the earnings of a person aged 18 and under;
- (d) student loans, student loan equalization payments and student grants but excluding non-repayable training allowances, research fellowships or similar grants;
- (e) shelter aid for elderly renters (SAFER) or rental assistance program (RAP) payments received prior to purchasing an Affordable Unit;
- (f) GST rebates;
- (g) taxable benefits received through employment;
- (h) government provided daycare allowance; and
- (i) payments for foster children, or child in home of relative (CIHR) income under the *Employment and Assistance Act*.

"Income from Assets" means computing income from assets of all persons intending to live in an Affordable Unit at a percentage per annum as determined by CRD, excluding the first \$62,051.00 in assets of such persons, based on November 1, 2018 dollars, indexed over time by reference to changes from time to time in the consumer price index (all items, British Columbia) or if such consumer price index is no longer published, such substitute and comparable index as the NPO may designate.

"Proof of Income" means a tax return filed with Canada Revenue Agency or a notice of assessment from Canada Revenue Agency under the *Income Tax Act*.

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4459**

**A BYLAW TO AUTHORIZE A HOUSING AGREEMENT
(4734, 4744, 4754 ELK LAKE DRIVE)**

WHEREAS:

- A. The owner of lands legally described as Parcel "A" (DD S13027), of Lot 1, Section 108, Lake District, Plan 3255; Amended Lot 1 (DD 233499I) Section 110, Lake District, Plan 8316; and Amended Lot 2 (DD 233498-I), Section 110, Lake District Plan 8316, known as 4734, 4744, and 4754 Elk Lake Drive, wishes to develop such lands in the District of Saanich to provide, among a strata development of market housing, forty-three (43) units of affordable housing;
- B. Under the *Local Government Act*, RSBC 2015, c 1, section 483, the Capital Regional District may enter into an agreement, by bylaw, to ensure the availability of the housing units to certain classes of persons identified in the agreement, the administration and management of the units, rents, leases, and sale prices that may be charged, and the rates at which these may be increased over time as specified in the agreement or as determined by a formula; and under the *Land Title Act*, RSBC 1996, c 250, section 219, it may place a covenant on property to restrict its use and alienation; and
- C. Whereas the Capital Regional District Board wishes to enter into such a housing agreement and covenant to secure the affordable housing;

NOW THEREFORE, the Capital Regional District Board in open meeting enacts as follows:

- 1. The Capital Regional District is authorized to enter into the *Local Government Act* section 483 housing agreement and *Land Title Act* section 219 covenant attached to this Bylaw as Appendix 1 (the "Housing Agreement").
- 2. The Chair of the Capital Regional District is authorized to execute the Housing Agreement and the Corporate Officer or designate is authorized to sign and file in the Land Title Office a notice of the Housing Agreement, as required by the *Local Government Act*.
- 3. This Bylaw may be cited for all purposes as "Resale Control and Housing Agreement Bylaw (4734, 4744, 4754 Elk Lake Drive), 2021".

READ A FIRST TIME THIS	—	day of	2021
READ A SECOND TIME THIS	—	day of	2021
READ A THIRD TIME THIS	—	day of	2021
ADOPTED THIS	—	day of	2021

CHAIR

CORPORATE OFFICER

**REPORT TO HOSPITALS AND HOUSING COMMITTEE
MEETING OF WEDNESDAY, NOVEMBER 03, 2021**

SUBJECT **Revenue Anticipation Borrowing Resolution for Current Capital Regional Hospital District Operating Expenditures**

ISSUE SUMMARY

Adoption of a revenue anticipation borrowing resolution (General Purpose) authorizing borrowing up to \$10 million if required prior to receipt of requisition revenues expected in August 2022.

BACKGROUND

Section 31 of the *Hospital District Act* allows the Board to adopt a revenue anticipation resolution to borrow money if required to meet cash flow needs prior to receiving payable revenue from member municipalities and the surveyor of taxes for electoral areas. All borrowed funds must be repaid within nine months of the date of the borrowing. The last time borrowing was exercised under this authority was July 2017 for \$1.1 million to cover short term interest payments which was repaid in August upon receipt of requisition revenue.

Given the growth of the organization and increased capital activity, it is appropriate to continue implementing financial risk management tools that provide the ability to respond to both opportunities and unforeseen circumstances.

Based on best practices, staff recommend the amount within the revenue anticipation bylaw aligns to the anticipated peak, monthly cash outflow of approximately \$10 million for 2022. If required, the Capital Regional Hospital District (CRHD) will borrow funds by leveraging overdraft arrangements within current banking agreements or through the Municipal Finance Authority (MFA). Currently, the overdraft rate is 2.45% and MFA's short term borrowing rate is 0.94% (both variable rates as of October 14, 2021).

ALTERNATIVES

Alternative 1

The Hospitals and Housing Committee recommends to the Capital Regional Hospital District Board:

That the Revenue Anticipation Resolution be adopted to allow the temporary borrowing of up to \$10 million for current Capital Regional Hospital District operating expenditures.

Alternative 2

That this report be referred back to staff for additional information.

IMPLICATIONS

Financial Implications

The proposed resolution provides the CRHD access to funds as of January 2022 to cover expenditures if required, pending receipt of requisition revenue. Borrowed funds will not be

accessed unless necessary and any borrowed funds will be repaid upon receipt of anticipated revenues. Historically, the CRHD has not acted on the revenue anticipation borrowing resolution but it is a recommended fiscal risk management tool. The purpose of approving this resolution is to ensure available borrowing authority in the unlikely event funds are required to meet short term cash flow requirements.

CONCLUSION

This proposed resolution is brought forward annually for consideration. Adoption of the resolution is necessary to authorize borrowing to cover short term expenditures in 2022 if required, pending receipt of anticipated revenues.

RECOMMENDATION

The Hospitals and Housing Committee recommends to the Capital Regional Hospital District Board:

That the Revenue Anticipation Resolution be adopted to allow the temporary borrowing of up to \$10 million for current Capital Regional Hospital District operating expenditures.

Submitted by:	Rianna Lachance, BCom, CPA, CA, Senior Manager, Financial Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENT(S)

Appendix A: Revenue Anticipation Resolution

CAPITAL REGIONAL HOSPITAL DISTRICT

RESOLUTION

Victoria, BC, November 10, 2021

No. _____

WHEREAS, pursuant to Section 31 of the *Hospital District Act*, the Board may by resolution with the approval of the Minister of Health or a person authorized by him to act on his behalf, borrow money for purposes other than capital expenditures by temporary loan such sums as the Board may deem necessary to meet the current operating expenditures for the year, including the amounts required for principal and interest falling due within the year upon any debt of the Board;

AND WHEREAS pursuant to Section 25 of the said *Act*, member municipalities and the Province are not required to make payment from taxation revenues of amounts requisitioned by a Hospital District until August 1st of each year;

AND WHEREAS it is anticipated that a maximum of \$10,000,000 of borrowed funds will be required to meet 2022 current operating expenditures of the Board including the amounts required for principal and interest falling due within the year upon any debt of the Board;

NOW THEREFORE BE IT RESOLVED that the Board of the Capital Regional Hospital District borrow pursuant to Section 31 of the *Hospital District Act* a sum not exceeding \$10,000,000 for the purpose of paying the said current operating expenditures;

AND THAT the aforesaid monies or any part thereof may be borrowed for the purpose of aforesaid by means of bank overdrafts, bankers' acceptances, or promissory notes, bearing the Corporate Seal and signed by the Chair or Acting Chair and the Treasurer or Acting Treasurer. All monies borrowed pursuant to this resolution shall be repaid within nine months of the date of the first monies borrowed pursuant to this resolution;

AND THAT the Board of the Capital Regional Hospital District hereby pledges as security for liability incurred hereby, that part of current revenues necessary to fully satisfy any liability so created and the money borrowed shall be a first charge against current revenues received.