



## Notice of Meeting and Meeting Agenda Hospitals and Housing Committee

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Wednesday, March 1, 2023

1:30 PM

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

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K. Murdoch (Chair), J. Caradonna (Vice Chair), M. Alto, P. Brent, S. Brice, Z. de Vries, G. Holman, P. Jones, D. Kobayashi, C. McNeil-Smith, L. Szpak, 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. [23-160](#) Minutes of the February 1, 2023 Hospitals and Housing Committee Meeting

**Recommendation:** That the minutes of the Hospitals and Housing Committee meeting of February 1, 2023 be adopted as circulated.

**Attachments:** [Minutes - February 1, 2023](#)

### 4. Chair's Remarks

### 5. Presentations/Delegations

*The public are welcome to attend CRD Board meetings in-person.*

*Delegations will have the option to participate electronically. Please complete the online application at [www.crd.bc.ca/address](http://www.crd.bc.ca/address) no later than 4:30 pm two days before the meeting 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](mailto:crdboard@crd.bc.ca).*

### 6. Committee Business

- 6.1.     [23-080](#)     Capital Regional Hospital District Investment Portfolio Holdings and Annual Performance Update
- Recommendation:**   There is no recommendation. This report is for information only.
- Attachments:**     [Staff Report: CRHD Investment Portfolio Update](#)  
                              [Appendix A: Investment Policy](#)  
                              [Appendix B: Market Analysis](#)
- 6.2.     [23-081](#)     Capital Region Housing Corporation Investment Portfolio Holdings and Performance Annual Update
- Recommendation:**   There is no recommendation. This report is for information only.
- Attachments:**     [Staff Report: Investment Portfolio Annual Update](#)  
                              [Appendix A: Investment Policy](#)  
                              [Appendix B: Market Analysis](#)  
                              [Appendix C: MFA Monthly Performance Report](#)  
                              [Appendix D: Long-Term Monitoring](#)
- 6.3.     [23-082](#)     Capital Regional District Land Banking and Housing Land Acquisition Financing
- Recommendation:**   There is no recommendation. This report is for information only.
- Attachments:**     [Staff Report: LBH Land Acquisition Financing](#)
- 6.4.     [23-090](#)     Capital Region Housing Corporation Financial Plan Amendment
- Recommendation:**   The Hospitals and Housing Committee recommends to the Capital Region Housing Corporation Board:  
                              That the Capital Region Housing Corporation Operating and Administration Portfolio financial plan amendments be approved as attached.
- Attachments:**     [Staff Report: CRHC Financial Plan Amendment](#)  
                              [Appendix A: Amended Admin Budget](#)  
                              [Appendix B: Amended Umbrella Operating Agreement Budget](#)  
                              [Appendix C: Amended No Operating Agreement Budget](#)  
                              [Appendix D: Amended RHFP Agreement Budget](#)  
                              [Appendix E: Amended IHI Agreement Budget](#)  
                              [Appendix F: Amended Community Housing Agreement Budget](#)  
                              [Appendix G: Amended Development Services Budget](#)

**6.5.**      [23-177](#)      Lease for 7612 East Saanich Road - (Prosser Place Housing Development)

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

1. That the Chair of the Capital Regional District Board be authorized to execute the 60-year lease of the 7612 East Saanich Road Property (PID 031-883-486) to the Capital Region Housing Corporation.
2. That the Chief Administrative Officer be authorized to execute any agreements or documents and do all things necessary to finalize the acquisition and subsequent lease.

**Attachments:**      [Staff Report: Lease for 7612 East Saanich Rd](#)  
[Appendix A: Draft 60-year Lease of 7612 East Saanich Rd](#)

**6.6.**      [23-161](#)      Prosser Place Development Mortgage Registration: 7612 East Saanich Road

**Recommendation:** The Hospitals and Housing Committee recommends to the Capital Region Housing Corporation Board:

- 1) That the resolutions, attached as Appendix A and Appendix B and required by British Columbia Housing Management Commission to authorize the execution of the Section 219 Covenants and the loan and mortgage documents for 7612 East Saanich Road be approved;
- 2) That the Chief Administrative Officer be authorized to do all things necessary to affect the project and take such steps as are required to conclude the financing and purchase of the Prosser Place development project located at 7612 East Saanich Road.

**Attachments:**      [Staff Report: Prosser Place Dev'l Mtge Reg'n-7612 East Saanich Rd](#)  
[Appendix A: Draft Cert'd Copy-Resolution of Dirs–Repayable Loan](#)  
[Appendix B: Draft Cert'd Copy-Resolution of Dirs–Forgivable Loan](#)

**6.7.**      [23-164](#)      2859 Richmond Housing Agreement and Bylaw

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

1. That Bylaw No. 4539, "Resale Control and Housing Agreement Bylaw (2859 Richmond Road), 2023" be introduced and read for a first, second and third time; and
2. That Bylaw No. 4539 be adopted.

**Attachments:**      [Staff Report: 2859 Richmond Housing Agreement and Bylaw](#)  
[Appendix A: Bylaw No. 4539](#)  
[Appendix B: Right of First Refusal & Option to Purchase](#)

**7. Notice(s) of Motion**

**8. New Business**

**9. Adjournment**

The next meeting is April 5, 2023.

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

## Meeting Minutes

### Hospitals and Housing Committee

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Wednesday, February 1, 2023

1:30 PM

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

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#### PRESENT

Directors: K. Murdoch (Chair), J. Caradonna (Vice Chair), M. Alto, P. Brent (EP), Z. de Vries (1:44 pm), C. Harder (for L. Szpak), G. Holman, P. Jones, D. Kobayashi, C. McNeil-Smith, M. Westhaver (for S. Brice)

Staff: T. Robbins, Chief Administrative Officer; K. Lorette, General Manager, Planning and Protective Services; M. Barnes, Senior Manager, Health and Capital Planning Strategies; D. Elliott, Senior Manager, Regional Housing; S. Grigg, Manager of Operations, Regional Housing; K. Mah, Healthy Communities Planner, Health and Capital Planning Strategies; M. Lagoa, Deputy Corporate Officer; T. Pillipow, Committee Clerk (Recorder)

EP - Electronic Participation

Regrets: Director C. Plant

The meeting was called to order at 1:30 pm.

#### 1. Territorial Acknowledgement

Chair Murdoch provided a Territorial Acknowledgement.

#### 2. Approval of Agenda

**MOVED** by Director Kobayashi, **SECONDED** by Director McNeil-Smith,  
That the agenda for the February 1, 2023 Hospitals and Housing Committee  
meeting be approved.

**CARRIED**

#### 3. Adoption of Minutes

##### 3.1. [23-095](#) Minutes of the October 5, 2022 Hospitals and Housing Committee Meeting

**MOVED** by Alternate Director Westhaver, **SECONDED** by Alternate Director  
Harder,  
That the minutes of the Hospitals and Housing Committee meeting of October 5,  
2022 be adopted as circulated.

**CARRIED**

#### 4. Chair's Remarks

Chair Murdoch noted that he is looking forward to the good work to come in the next year.

#### 5. Presentations/Delegations

There were no presentations or delegations.

#### 6. Committee Business

**6.1. [23-030](#) 2023 Hospitals and Housing Committee Terms of Reference**

K. Lorette introduced staff and presented Item 6.1. for information.

**6.2. [23-083](#) Tenant Advisory Committee Year-End Reporting**

K. Lorette presented Item 6.2. for information.

Discussion ensued on the following:

- the recruitment process and service terms of the committee
- reporting on the upcoming survey

**6.3. [23-084](#) Provincial Decriminalization of Controlled Substances and the Clean Air Bylaw**

K. Lorette presented Item 6.3. for information.

Discussion ensued on the following:

- if amendments are needed to the regional parks & facilities bylaws
- the composition of the municipal working group
- managing the use of controlled substances through other bylaws
- whether this decision might affect CRD housing policies

**6.4. [23-060](#) Previous Minutes of Other CRD Committees and Commissions for Information**

Discussion ensued on the following:

- the varied definitions of 'affordability' and its impact on funding
- eligibility requirements for tenants of low income housing

Director Holman left the meeting at 2:02 pm.

**These minutes were received for information:**

- a) Regional Housing Advisory Committee minutes - December 12, 2022**
- b) Tenant Advisory Committee minutes - September 26, 2022**

#### 7. Notice(s) of Motion

There were no notice(s) of motion.

**8. New Business**

There was no new business.

**9. Adjournment**

**MOVED** by Director Alto, **SECONDED** by Director Kobayashi,  
That the February 1, 2023 Hospitals and Housing Committee meeting be  
adjourned at 2:06 pm.  
**CARRIED**

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CHAIR

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RECORDER

**REPORT TO THE HOSPITALS AND HOUSING COMMITTEE  
MEETING OF WEDNESDAY, MARCH 01, 2023**

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**SUBJECT**      **Capital Regional Hospital District Investment Portfolio Holdings and Annual Performance Update**

**ISSUE SUMMARY**

Provide an annual update on Capital Regional Hospital District (CRHD) investment holdings and performance for the period that ended December 31, 2022.

**BACKGROUND**

The Capital Regional District (CRD) invests operating, capital and reserve funds in accordance with the *Local Government Act*, *Community Charter* and Board approved Investment Policy. The Investment Policy applies to the investment activities for all funds maintained by the CRD, the Capital Region Housing Corporation (CRHC) and the CRHD. The types and terms of investments purchased are evaluated on four fundamental objectives: safety of principal, liquidity, responsible investing and return on investment in alignment with the policy.

The policy also provides the minimum ratings of investment vehicles that can be purchased. Currently, investments in chartered banks or savings institutions must be rated R-1 (low) or higher for short-term investment and A- for long-term as published by major credit rating agencies. Both ratings indicate a superior credit rating on all investments.

Investments are continuously monitored to ensure the appropriate strategy through current and forecasted economic conditions. The CRHD invests net working capital and reserves in a mix of products including High-Interest Savings Accounts (HISA), fixed term Guaranteed Investment Certificates (GICs) and Municipal Finance Authority (MFA) pooled funds. The placement or divestiture of investments are timed with forecasted cash requirements.

Investments through 2022 have been made in alignment with the Board approved Investment Policy (Appendix A) which was last amended in March to incorporate the published MFA Environmental, Social and Governance Framework. Although economic and market conditions drove fluctuations and uncertainty in the portfolio, performance exceeded the benchmark rate (as detailed in the report).

**IMPLICATIONS**

*Financial Implications*

**Portfolio Holdings**

As of December 31, 2022, the CRHD investment portfolio totaled \$24.4 million invested in short-term investments, as outlined in Table 1. This increased from the \$18.6 million held in 2021 as reserve funds have risen in anticipation of future investment.



**Table 1: CRHD Investment Holdings – as of Dec 31, 2022**

Investments	Balance (\$millions)	% Share
<b>Investments Short-Term (less than 2 years)</b>		
High Interest Savings Accounts (Cash)	15.4	63.1%
Guaranteed Investment Certificates (<2 year)	9.0	36.9%
<b>Total Short-term:</b>	<b>24.4</b>	<b>100.0%</b>
<b>Total Investments:</b>	<b>\$24.4</b>	<b>100.0%</b>

As noted in Table 1 above, the CRHD investment portfolio at December 31, 2022 was distributed 100% to short-term investments. Investments with maturities less than two years are classified as short-term.

Table 2 below shows the three-year trend on investment income.

**Table 2: CRHD Investment Income Three-Year Trend (\$ Millions)**

	2020		2021		2022	
Passive Income	1.1%	\$0.2M	0.8%	\$0.2M	1.6%	\$0.3M
Value-Add	0.3%	\$0.1M	0.1%	\$0.1M	1.3%	\$0.3M
<b>Total</b>	<b>1.4%</b>	<b>\$0.3M</b>	<b>0.9%</b>	<b>\$0.2M</b>	<b>2.9%</b>	<b>\$0.6M</b>

The total effective return on investments during 2022 was \$0.6 Million or 2.9%, driven by higher interest rates impacting returns on HISAs and GICs.

## Performance

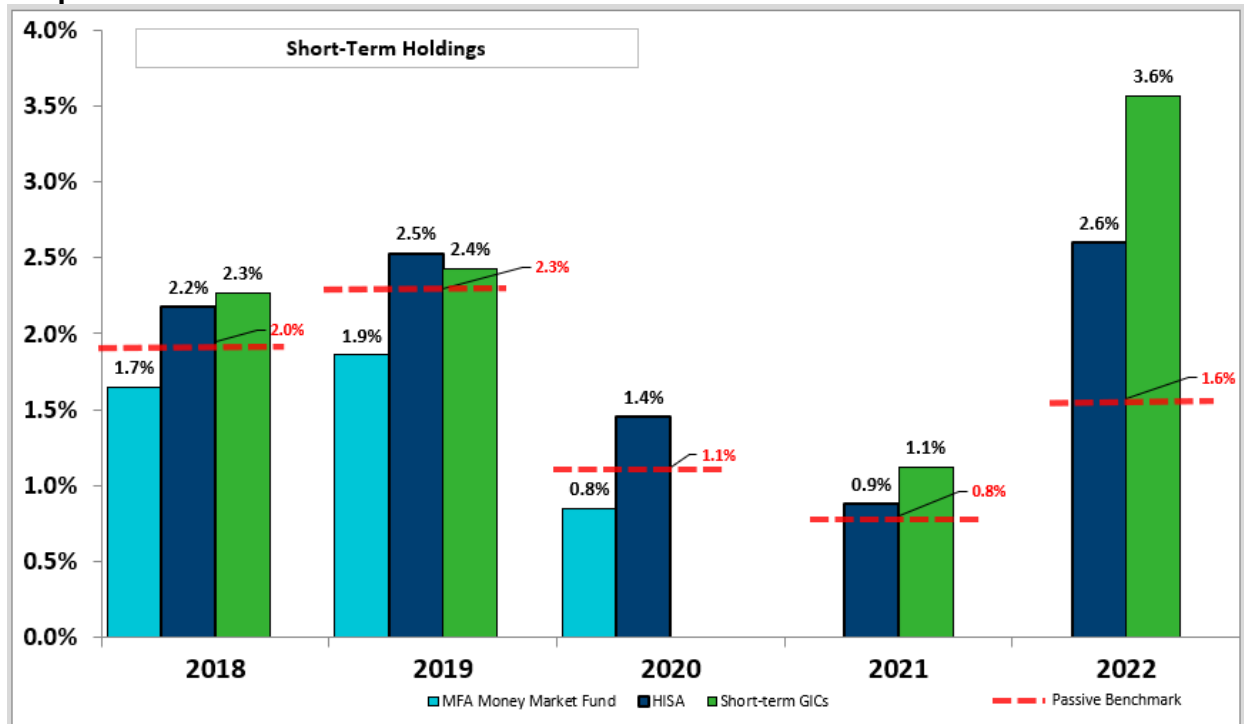
Returns in excess of benchmark were a result of active portfolio management and improvements in cashflow forecasting throughout the year. During 2022, the Bank of Canada raised the overnight interest rate eight times, this doubled of the passive benchmark rate of return from 0.8% to 1.6%. Active portfolio management leveraged rate increases into an opportunity as fixed-term interest rates also increased.

In 2022, capital project cash outflows were relatively consistent where average monthly distributions were ~\$3.0 million. Major expenditures included Oak Bay Lodge, the High Acuity Unit at Victoria General Hospital and the Lady Minto Emergency Department expansion. As projects wind down, short-term liquidity requirements will decrease. As the CRHD grows reserves in alignment with Island Health capital planning and capital asset replacement, portfolio holdings in long-term products will increase.

An active investment strategy, continued improvements in tools and maturing cash flow management remain critical to performance. Targeting specific reserve spending allows a more active investment approach where cash can be invested in potentially higher rate products when liquidity is known. This approach increases investment activity but helps achieve better performance against benchmark. To take advantage of rate premiums on short-term investments, cash was placed in facilities yielding optimum return while still meeting liquidity targets.

Graph 1 provides a detailed report on portfolio yields for 2022.

**Graph 1: CRHD Investment Results – Short-Term Investments:**



The passive benchmark represents the expected return from a liquid investment strategy with limited management. Passive rates over the past five years were 2.0%, 2.3%, 1.1%, 0.8% and 1.6% respectively.

The short-term GIC portfolio returned 3.6% while the HISA accounts returned 2.6%.

GIC rates rose significantly throughout 2022 and ended the year down slightly after rates hit five-year-highs. As a result of rate changes, treasury activities rebalanced the portfolio to increase return offered by the fixed-term investment market while still meeting liquidity balances on cash deposits.

## **CONCLUSION**

Overall, the CRHD portfolio of investments reflects the four fundamental objectives of safety of principal, liquidity, responsible investing and return on investment. Investments have been made in alignment with the Board approved Investment Policy and investment performance was in line with expectations for the year ended December 31, 2022.

**RECOMMENDATION**

There is no recommendation. This report is for information only.

Submitted by:	Rianna Lachance, BCom, CPA, CA, Senior Manager, Financial Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

**ATTACHMENTS**

Appendix A: Investment Policy

Appendix B: Market Analysis



## CAPITAL REGIONAL DISTRICT

Making a difference...together

## INVESTMENT POLICY

Policy Type	Board [Corporate]		
Title	INVESTMENT POLICY		
Adopted Date	September 22, 2013	Policy Number	BRD07
Amendment #1	May 10, 2017		
Amendment #2	March 10, 2021 (Approved)		
Amendment #3	March 9, 2022 (Approved)		
Policy Owner	Financial Services		

**1. PURPOSE**

This investment policy provides the framework for investment portfolio management for the Capital Regional District (CRD), Capital Regional Hospital District (CRHD) and Capital Region Housing Corporation (CRHC).

It is the policy of the CRD, CRHD and CRHC to invest funds in a manner that provides the optimal blend of investment security and return while meeting the short and long term cash flow requirements in support of the corporate plan priorities while maintaining compliance with statutory requirements.

**2. SCOPE**

The investment policy applies to all cash operating funds, capital funds and reserve funds. It does not apply to funds held in trust or which have a specific legal or statutory requirement for cash management, disbursement, or investment.

**3. PRINCIPLES**

The investment of funds must reflect a management philosophy based on the fundamental objectives of

**3.1 Safety of Principal**

Investments shall be made to ensure preservation of principal within the portfolio. Preservation of principal is accomplished through placement of funds with creditworthy institutions and through portfolio diversification. Diversification is required to minimize potential losses on financial products.

**3.2 Liquidity**

The investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow requirements.

**3.3 Responsible Investing**

The investment program will consider socially responsible investment products that adhere to statutory requirements and meet the objectives laid out in this policy.

Organizations that adopt a socially responsible investment platform in alignment with the published MFA ESG framework are preferred

### **3.4 Return on Investment**

The investment portfolio shall be designed with the objective of maximizing market rate of return subject to the investment risk constraints, liquidity requirements and responsible investing objectives.

## **4. INVESTMENT PARAMETERS**

### **4.1 Safety of Principal**

The program will diversify cash reserve investments by security type and institution, taking into consideration the impact on return on investment. Section 5.4 outlines the authorized and suitable investments permissible to ensure optimal portfolio diversification.

### **4.2 Liquidity**

To the extent possible, portfolio management will align investments with anticipated cash flow requirements. However, a portion of the portfolio shall be continuously invested in fully-liquid investments to meet ongoing obligations.

A long-term financial plan will be established for major capital reserves. The long-term financial plan will inform the term decision when placing timed investments in order to meet liquidity requirements.

### **4.3 Responsible Investing**

Where responsible investment options provide comparable risk, return and liquidity, these facilities will be a priority. Investments are considered in alignment with responsible investing objectives when identified as meeting criteria as defined by MFA within the published MFA ESG Framework.

### **4.4 Return on Investment**

The investment program will seek to maximize the total return on all funds under management after considering protection of principal, liquidity and responsible investing. Return will be monitored through performance benchmarks to ensure program activities are providing benefits in excess of costs and with the goal to preserve capital against inflation over time. Due to the nature of the CRHC business activities, delivering affordable housing within the social service sector, CRHC will be excluded from holding lower return products.

### **4.5 Authorized and Suitable Investments**

Money held may be invested or reinvested according to section 183 of the *Community Charter* subject to the following conditions:

1. Investments in marketable securities of a chartered bank or savings institution or any province must have a DBRS risk rating of R-1 (low) or higher for short-term debt and a rating of A (low) for long-term debt or comparable ratings of another rating organization, indicating equal or superior credit quality (see Appendix A of this policy).

2. Investment placements will conform to the portfolio diversification constraints listed in Appendix B. Exceptions to constraints listed in Appendix A require Chief Financial Officer approval and shall be reported to the Board through Standing Committee at the next available meeting.
3. Internal projects under CRD service authority are considered allowable investment options when capital reserves are not immediately required and can be accessed through inter-service borrowing. Inter-service borrowing will be in compliance with legislation and the CRD Inter-Service Borrowing Guidelines.

## **5. STANDARD OF CARE**

### **5.1 Prudence**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs. Investments will not be made for speculation. Foremost will be consideration for the safety of capital. Staff must be aware of reasonably foreseeable risks, trends and fluctuations in the market, and be able to recognize unreasonable risks whilst ensuring the liquidity of the investment portfolio.

### **5.2 Ethics and Conflict of Interest**

Staff responsible for investing activities shall comply with the CRD Conflict of Interest Policy and shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions.

### **5.3 Delegation of Authority**

Authority to manage the investment program ("the Program") is granted to the Chief Financial Officer and is derived from section 237 of the *Local Government Act*.

### **5.4 Credit Risk Monitoring**

To meet the objectives of this policy and ensure suitability of offerings, credit risk monitoring must be conducted by CRD Staff independent of vendor representations. The following due-diligence shall be performed:

1. In-house credit analysis shall be conducted on all financial institutions and investment counter-parties.
2. Credit reports and analysis, published by DBRS, S&P, Fitch or Moody's, will be obtained from financial institutions, investment dealers and rating institutions and reviewed.
3. Credit reports and analysis are recognized as opinions and not a guarantee for safety of principal.
4. When placing investments in individual marketable securities and more than one credit rating is available, the average of two or more available credit ratings shall be used.

**5.5 Consolidated Basis**

All funds covered by this policy will be managed on a consolidated basis to ensure the best possible return by providing economies of scale.

**5.6 Program Requirements**

The Program shall abide by the following reporting requirements:

1. The Chief Financial Officer must report to the Finance Committee annually. The report must identify investment holdings and any deviations from this policy; and
2. An appropriate portfolio performance benchmark will be set and reported in the annual investment performance report.

**6. POLICY REVIEW**

<b>Review Date</b>	<b>Description:</b>
March 2026, unless legislative change or new MFA finance product	To ensure ongoing relevance, this policy shall be reviewed the earlier of: <ol style="list-style-type: none"><li>1. If a change in the relevant legislation governing the investment activities of local governments occurs;</li><li>2. If the Municipal Finance Authority of British Columbia establishes a new pooled fund investment product; or</li><li>3. Every five calendar years.</li></ol>

**7. RELATED POLICY, PROCEDURE AND GUIDELINES**

- Conflict of Interest Policy

**Appendix A**  
**Dominion Bond Rating Service (DBRS) Credit Quality Ratings**

Commercial Paper & Short-Term Debt	Bond & Long-term Debt	Bond & Long-term Debt	Description	CRD/CRHD/CRHC Investment Policy
R-1 (high)	AAA	Investment Grade  ↑	Superior	Permissible
R-1 (high)	AA (high)			
R-1 (middle)	AA			
R-1 (middle)	AA (low)			
R-1 (low)	A (high)			
R-1 (low)	A			
R-1 (low)	A (low)			
R-2 (high)	BBB (high)	Speculative Grade	Adequate	Not Permissible
R-2 (middle)	BBB			
R-2 (low) / R-3	BBB (low)			
R-4	BB (high)			
R-4	BB			
R-4	BB (low)			
R-4	B (high)			
R-5	B			
R-5	B (low)			
R-5	CCC			
R-5	CCC			
R-5	CCC			
R-5	CC			
R-5	C			
D	D			



## Appendix B

### Portfolio Diversification Constraints

**Exposure constraints target protection of principal and return and set a maximum allowable share of the total portfolio that can be invested.**

Due to market fluctuations and / or the timing of investment deposit transfers, maximum percentages in Appendix C may be exceeded at a point in time. Securities need not be liquidated to rebalance the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.

The portfolio diversification constraints are found in Table 1 below:

Table 1: **Portfolio Diversification Constraints**

Investment Type	MAXIMUM of Total Reserves	MAXIMUM by Institution/product/ pooled fund
<b><u>Short-Term (&lt; 2 year holding period)</u></b>		
Canadian Banks (Schedule 1) Deposits and/or GIC's	65%	35%
MFA Pooled Fund Products	50%	50%
Credit Unions (Rated/Insured) Deposits and/or GIC's	35%	20%
<b><u>Long-Term (&gt; 2 year holding period)</u></b>		
Canadian Banks (Schedule 1) Deposits and/or GIC's	65%	35%
MFA Pooled Fund Products	60%	30%
Credit Unions (Rated/Insured) Deposits and/or GIC's	35%	20%
Internal Projects (5+ years)	30%	-
Federal Bonds	20%	10%
Municipal Finance Authority of BC Bonds	20%	20%
Provincial Bonds	15%	15%
Municipal, Regional District or Greater Board Bonds	15%	15%

## Market Analysis

### **Applies to the Capital Regional District (CRD), the Capital Regional Hospital District (CRHD), and the Capital Region Housing Corporation (CRHC)**

As part of overall portfolio management, staff regularly monitor market trends and key metrics such as the Bank of Canada overnight interest rate, the Government of Canada bond rates and other market commentary issued by banks and investment brokers. Additionally, the Municipal Finance Authority (MFA) provides regular market commentary on new product developments and based on outlook reports provided by Phillips, Hager & North Investment Management (PH&N).

The economic theme for 2022 was one of market turbulence. Geopolitical conflict, rising interest rates and record inflation heightened recessionary risks for many economies as financial conditions came under pressure. Consequently, significant repricing in fixed income and equity markets were the result.

While 2022 market fixed income results were poor, yields across terms now offer attractive potential returns comprised of capital gains and income. Deposit rates (GICs and HISAs) began the 2022 at historically low levels but ended the year much higher, due to the impact of eight Bank of Canada interest rate hikes throughout the year.

Table 1 below presents key indicator rates at December 31 for the period 2020 to 2022:

**Table 1: Indicative Market Rates 2020 to 2022**

Rate	2020	2021	2022
Bank Of Canada – Overnight Rate	0.25% - 1.75%	0.25%	0.25% - 4.50%
HISA	0.80% - 1.06%	0.80 – 0.95%	0.72% - 4.80%
RBC – Bank Rate	0.80% - 2.30%	0.80%	0.70% - 4.70%
Fixed GIC – 180 day /1 Year (sample)	0.92% / 1.24%	0.40 – 0.70%	2.22% / 3.06%

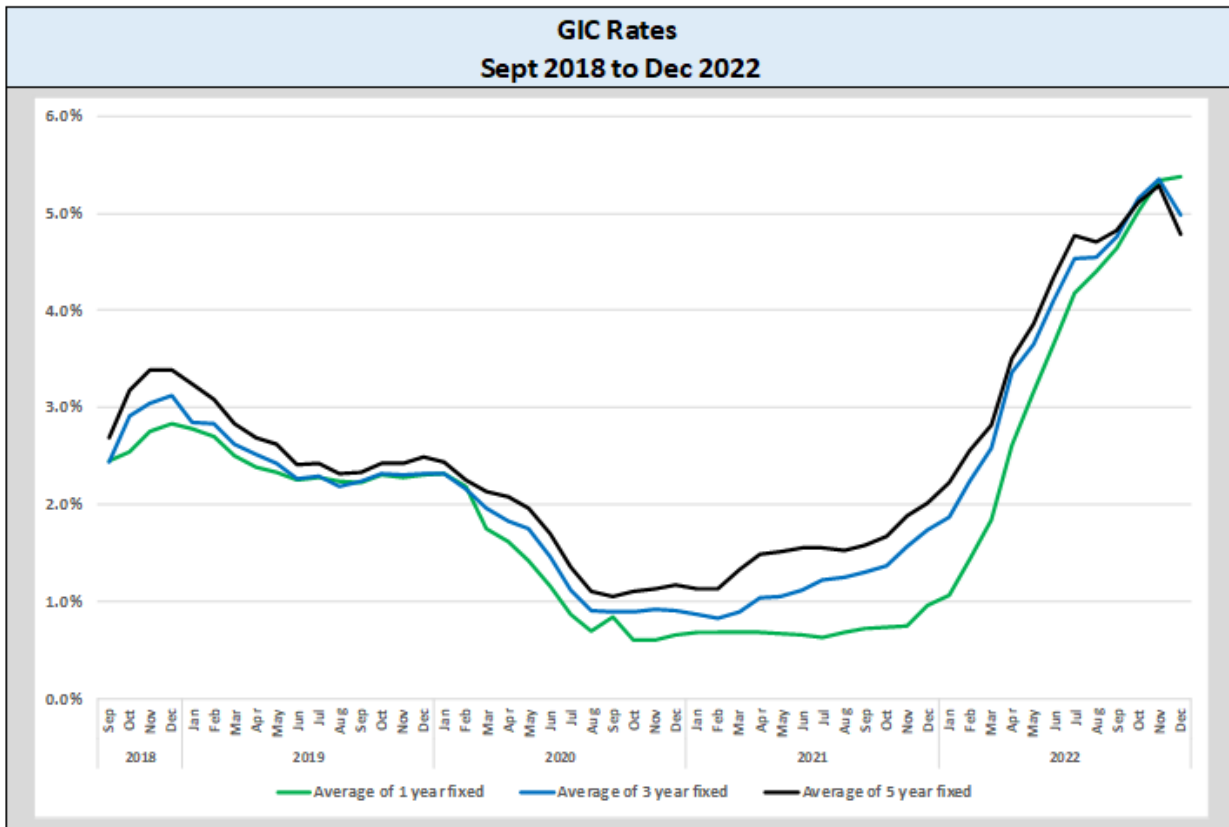
### **Investment Marketplace**

Throughout 2022, HISA rates rose but not as high as GIC rates, making them less competitive compared to fixed term GIC products. HISA allocations were driven by maintaining liquidity for unforeseen circumstances.

GIC rates increased significantly throughout 2022, exceeding the rate of increase on deposits. As shown in Graph 1, GIC rates were at their highest late in 2022, ending the year down slightly off the five-year high of 5.2%<sup>1</sup>.

<sup>1</sup> CRD treasury files

Graph 1: GIC Historical Rates (Short-Term)



In January 2022, the MFA introduced a Diversified Multi-Asset Class (DMAC) Fund. This DMAC Fund will invest in a diverse universe of securities such as corporate fixed income, common stocks and alternative asset classes such as infrastructure and real estate. The first \$15 million CRD investment was placed in the DMAC fund upon its opening by the MFA on January 17, 2022

The CRD also made a placement to the MFA Mortgage Fund, which invests in existing PH&N pooled fund products providing investment exposure to commercial investment grade mortgages.

The CRD continues to hold units in the MFA Fossil Fuel-Free Bond Fund (FFF) and the MFA Bond Fund. The FFF Bond Fund invests in securities similar to the existing bond fund except that the FFF option excludes those holdings directly related to non-renewable energy extraction, processing, and transportation. This additional screening is estimated to exclude approximately 4% of the population of investible securities compared to the existing bond fund.

Over the full calendar 2022 year, the Fossil-Fuel-Free Bond Fund (FFF Fund) underperformed the MFA Bond Fund on an annual basis by 0.16% (-3.59% versus -3.43% respectively). This discrepancy was primarily due to the difference in corporate exposure between the two portfolios, specifically energy exposure. The FFF Fund had a significantly lower weight in the energy sector compared to the bond fund, which was one of the top performing corporate sectors over the year. Additionally, the FFF Fund held a higher weight to the Real Estate and Financial sectors, which experienced substantial spread widening over the year. Cumulatively, these positioning changes resulted in the MFA Bond Fund outperforming the FFF Fund by approximately 0.16% over the full year 2022.

Staff will assess investment placements in existing and new MFA pooled funds in the future, for the CRD, the CRHD, and the CRHC, as the need to place long-term funds arises.

**REPORT TO HOSPITALS AND HOUSING COMMITTEE  
MEETING OF WEDNESDAY, MARCH 01, 2023**

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**SUBJECT**     **Capital Region Housing Corporation Investment Portfolio Holdings and Performance Annual Update**

**ISSUE SUMMARY**

Provide an annual update on the Capital Region Housing Corporation (CRHC) investments held and performance for the period ended December 31, 2022.

**BACKGROUND**

The Capital Regional District (CRD) invests operating, capital, and reserve funds in accordance with the *Local Government Act*, *Community Charter*, and Board approved Investment Policy. The Investment Policy applies to the investment activities for all funds maintained by the CRD, the CRHC and the Capital Regional Hospital District (CRHD). The types and terms of investments purchased are evaluated on four fundamental objectives: safety of principal, liquidity, responsible investing and return on investment in alignment with the policy.

The policy also provides the minimum ratings of investment vehicles that can be purchased. Currently, investments in chartered banks or savings institutions must have a risk rating of R-1 (low) or higher for short-term and a rating of A- for long-term as published by major credit rating agencies. Both ratings achieve a superior credit rating on all investments.

Investments are continuously monitored to ensure the appropriate strategy through current and forecasted economic conditions. The CRHC invests net working capital and replacement reserves in a mix of products including High-Interest Savings Accounts (HISA), fixed term Guaranteed Investment Certificates (GICs) and Municipal Finance Authority (MFA) pooled funds. The placement or divestiture of investments are timed with forecasted cash requirements.

Investments through 2022 have been made in alignment with the Board approved Investment Policy (Appendix A), last amended in March to incorporate the published MFA Environmental, Social and Governance Framework. Although economic and market conditions drove fluctuations and uncertainty in the portfolio, performance exceeded the benchmark rate, as detailed in the report.

**IMPLICATIONS**

*Financial Implications*

**Portfolio Holdings**

As of December 31, 2022, the CRHC investment portfolio totaled \$15.1 million invested in short-term and long-term investments, as detailed in Table 1. This increased from the \$10.4 million in 2021 due to an increase in cash on hand for approved projects.

**Table 1: CRHC Investment Holdings – as of Dec 31, 2022**

Investments	Balance (\$millions)	% Share
<b>Investments Short-Term (less than 2 years)</b>		
High Interest Savings Accounts (Cash)	0.0	0.1%
Guaranteed Investment Certificates (<2 year)	6.5	43.1%
<b>Total Short-term:</b>	<b>6.5</b>	<b>43.2%</b>
<b>Investments Long-Term (more than 2 years)</b>		
MFA Short-Term Bond Fund	8.6	56.8%
<b>Total Long-term</b>	<b>8.6</b>	<b>56.8%</b>
<b>Total Investments:</b>	<b>\$15.1</b>	<b>100.0%</b>

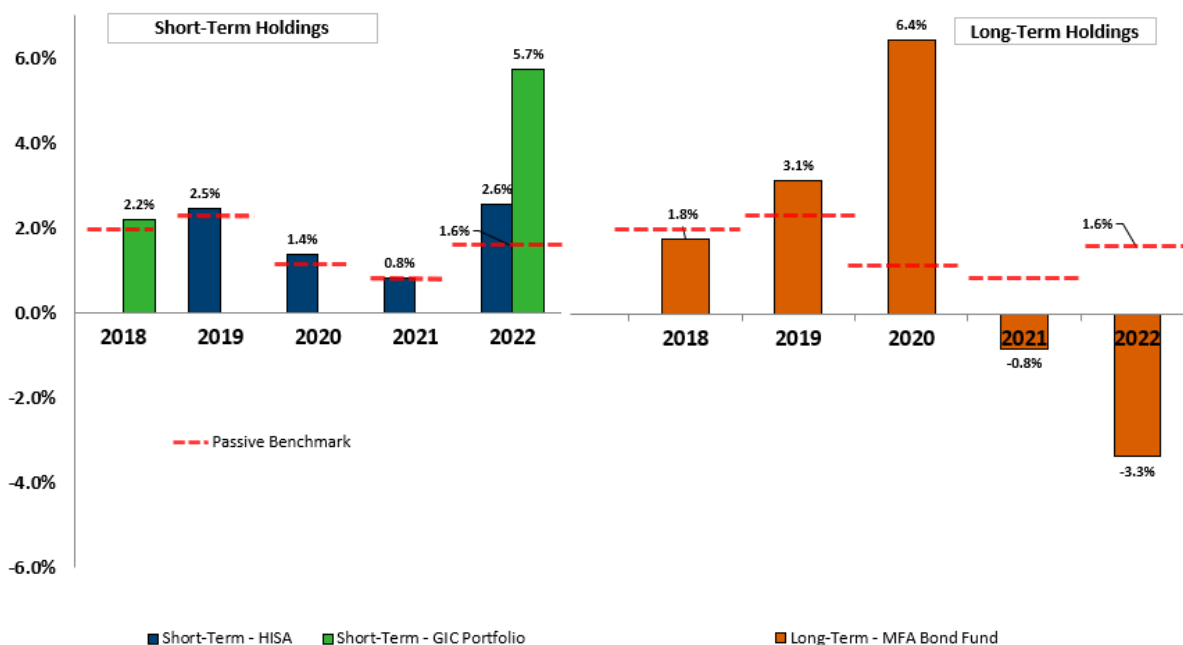
The portfolio is distributed between short-term and long-term investments at 43% and 57% respectively. Investments with maturities or approaching maturities less than two years are classified as short-term. Table 2 below summarizes the three-year trend on investment income.

**Table 2: CRHC Investment Income Three-Year Trend (\$ Thousands)**

	2020		2021		2022	
Passive Income	1.1%	\$115.4K	0.8%	\$80.0K	1.6%	\$165.6K
Unrealized gain (loss)	3.5%	\$351.6K	-2.5%	-\$253.5K	-4.9%	-\$517.5K
Value-Add	1.0%	\$95.7K	1.1%	\$112.8K	1.1%	\$112.9K
<b>Total</b>	<b>5.6%</b>	<b>\$562.7K</b>	<b>-0.6%</b>	<b>-\$60.7K</b>	<b>-2.2%</b>	<b>-\$239.9K</b>

The total effective return on investments during 2022 was (\$239.9K) or (-2.2%). Excluding unrealized losses in MFA pooled funds, the investment return was 278K or 3.1%. In comparison to 2021, 2022 returns were lower, driven by investment market fluctuations impacting the annual return on long-term pooled fund investments. Graph 1 provides a detailed report on investment returns in 2022.

Graph 1: CRHC Investment Results - 2022:



The passive benchmark represents the expected return from a liquid investment strategy with limited active management. Passive rates over the past five years were 2.0%, 2.3%, 1.1%, 0.8% and 1.6% respectively.

During 2022, short-term GICs earned 5.7% and the HISAs earned 2.4%. Market rates generally rose during 2022 to provide short-term investment opportunities at higher rates.

The MFA Bond Fund posted a loss of (3.3%) in 2022 due to the inverse relationship between interest rates and the long-term bond yield. Reporting requirements quantify market value as unrealized gains or losses for the fiscal cycle. When securities are sold unrealized gains/losses become realized. The nature of long-term investments are to hold them for the long-term and weather inherent storms. MFA benchmarks each fund to evaluate fund manager performance.

## CONCLUSION

Overall, the CRHC portfolio of investments reflects the three fundamental objectives of safety of principal, liquidity and return on investment. Investments have been made in keeping with requirements under the Investment Policy Statement and investment performance exceeded expectations for the year ended December 31, 2022.

## RECOMMENDATION

There is no recommendation. This report is for information only.

Submitted by:	Rianna Lachance, BCom, CPA, CA, Senior Manager, Financial Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

**ATTACHMENTS**

Appendix A: Investment Policy

Appendix B: Market Analysis

Appendix C: MFA Pooled Investment Fund Monthly Performance Report

Appendix D: Long-Term Monitoring





## CAPITAL REGIONAL DISTRICT

Making a difference...together

### INVESTMENT POLICY

Policy Type	Board [Corporate]		
Title	INVESTMENT POLICY		
Adopted Date	September 22, 2013	Policy Number	BRD07
Amendment #1	May 10, 2017		
Amendment #2	March 10, 2021 (Approved)		
Amendment #3	March 9, 2022 (Approved)		
Policy Owner	Financial Services		

### 1. PURPOSE

This investment policy provides the framework for investment portfolio management for the Capital Regional District (CRD), Capital Regional Hospital District (CRHD) and Capital Region Housing Corporation (CRHC).

It is the policy of the CRD, CRHD and CRHC to invest funds in a manner that provides the optimal blend of investment security and return while meeting the short and long term cash flow requirements in support of the corporate plan priorities while maintaining compliance with statutory requirements.

### 2. SCOPE

The investment policy applies to all cash operating funds, capital funds and reserve funds. It does not apply to funds held in trust or which have a specific legal or statutory requirement for cash management, disbursement, or investment.

### 3. PRINCIPLES

The investment of funds must reflect a management philosophy based on the fundamental objectives of

#### 3.1 Safety of Principal

Investments shall be made to ensure preservation of principal within the portfolio. Preservation of principal is accomplished through placement of funds with creditworthy institutions and through portfolio diversification. Diversification is required to minimize potential losses on financial products.

#### 3.2 Liquidity

The investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow requirements.

#### 3.3 Responsible Investing

The investment program will consider socially responsible investment products that adhere to statutory requirements and meet the objectives laid out in this policy.

Organizations that adopt a socially responsible investment platform in alignment with the published MFA ESG framework are preferred

### **3.4 Return on Investment**

The investment portfolio shall be designed with the objective of maximizing market rate of return subject to the investment risk constraints, liquidity requirements and responsible investing objectives.

## **4. INVESTMENT PARAMETERS**

### **4.1 Safety of Principal**

The program will diversify cash reserve investments by security type and institution, taking into consideration the impact on return on investment. Section 5.4 outlines the authorized and suitable investments permissible to ensure optimal portfolio diversification.

### **4.2 Liquidity**

To the extent possible, portfolio management will align investments with anticipated cash flow requirements. However, a portion of the portfolio shall be continuously invested in fully-liquid investments to meet ongoing obligations.

A long-term financial plan will be established for major capital reserves. The long-term financial plan will inform the term decision when placing timed investments in order to meet liquidity requirements.

### **4.3 Responsible Investing**

Where responsible investment options provide comparable risk, return and liquidity, these facilities will be a priority. Investments are considered in alignment with responsible investing objectives when identified as meeting criteria as defined by MFA within the published MFA ESG Framework.

### **4.4 Return on Investment**

The investment program will seek to maximize the total return on all funds under management after considering protection of principal, liquidity and responsible investing. Return will be monitored through performance benchmarks to ensure program activities are providing benefits in excess of costs and with the goal to preserve capital against inflation over time. Due to the nature of the CRHC business activities, delivering affordable housing within the social service sector, CRHC will be excluded from holding lower return products.

### **4.5 Authorized and Suitable Investments**

Money held may be invested or reinvested according to section 183 of the *Community Charter* subject to the following conditions:

1. Investments in marketable securities of a chartered bank or savings institution or any province must have a DBRS risk rating of R-1 (low) or higher for short-term debt and a rating of A (low) for long-term debt or comparable ratings of another rating organization, indicating equal or superior credit quality (see Appendix A of this policy).

2. Investment placements will conform to the portfolio diversification constraints listed in Appendix B. Exceptions to constraints listed in Appendix A require Chief Financial Officer approval and shall be reported to the Board through Standing Committee at the next available meeting.
3. Internal projects under CRD service authority are considered allowable investment options when capital reserves are not immediately required and can be accessed through inter-service borrowing. Inter-service borrowing will be in compliance with legislation and the CRD Inter-Service Borrowing Guidelines.

## 5. STANDARD OF CARE

### 5.1 Prudence

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs. Investments will not be made for speculation. Foremost will be consideration for the safety of capital. Staff must be aware of reasonably foreseeable risks, trends and fluctuations in the market, and be able to recognize unreasonable risks whilst ensuring the liquidity of the investment portfolio.

### 5.2 Ethics and Conflict of Interest

Staff responsible for investing activities shall comply with the CRD Conflict of Interest Policy and shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions.

### 5.3 Delegation of Authority

Authority to manage the investment program ("the Program") is granted to the Chief Financial Officer and is derived from section 237 of the *Local Government Act*.

### 5.4 Credit Risk Monitoring

To meet the objectives of this policy and ensure suitability of offerings, credit risk monitoring must be conducted by CRD Staff independent of vendor representations. The following due-diligence shall be performed:

1. In-house credit analysis shall be conducted on all financial institutions and investment counter-parties.
2. Credit reports and analysis, published by DBRS, S&P, Fitch or Moody's, will be obtained from financial institutions, investment dealers and rating institutions and reviewed.
3. Credit reports and analysis are recognized as opinions and not a guarantee for safety of principal.
4. When placing investments in individual marketable securities and more than one credit rating is available, the average of two or more available credit ratings shall be used.

**5.5 Consolidated Basis**

All funds covered by this policy will be managed on a consolidated basis to ensure the best possible return by providing economies of scale.

**5.6 Program Requirements**

The Program shall abide by the following reporting requirements:

1. The Chief Financial Officer must report to the Finance Committee annually. The report must identify investment holdings and any deviations from this policy; and
2. An appropriate portfolio performance benchmark will be set and reported in the annual investment performance report.

**6. POLICY REVIEW**

<b>Review Date</b>	<b>Description:</b>
March 2026, unless legislative change or new MFA finance product	To ensure ongoing relevance, this policy shall be reviewed the earlier of: <ol style="list-style-type: none"><li>1. If a change in the relevant legislation governing the investment activities of local governments occurs;</li><li>2. If the Municipal Finance Authority of British Columbia establishes a new pooled fund investment product; or</li><li>3. Every five calendar years.</li></ol>

**7. RELATED POLICY, PROCEDURE AND GUIDELINES**

- Conflict of Interest Policy

**Appendix A**  
**Dominion Bond Rating Service (DBRS) Credit Quality Ratings**

Commercial Paper & Short-Term Debt	Bond & Long-term Debt	Bond & Long-term Debt	Description	CRD/CRHD/CRHC Investment Policy
R-1 (high)	AAA	Investment Grade  ↑	Superior	Permissible
R-1 (high)	AA (high)			
R-1 (middle)	AA			
R-1 (middle)	AA (low)			
R-1 (low)	A (high)		Good	
R-1 (low)	A			
R-1 (low)	A (low)			
R-2 (high)	BBB (high)	Speculative Grade	Adequate	Not Permissible
R-2 (middle)	BBB			
R-2 (low) / R-3	BBB (low)			
R-4	BB (high)			
R-4	BB			
R-4	BB (low)			
R-4	B (high)			
R-5	B			
R-5	B (low)			
R-5	CCC			
R-5	CCC			
R-5	CCC			
R-5	CC			
R-5	C			
D	D		Default	

## Appendix B

### Portfolio Diversification Constraints

**Exposure constraints target protection of principal and return and set a maximum allowable share of the total portfolio that can be invested.**

Due to market fluctuations and / or the timing of investment deposit transfers, maximum percentages in Appendix C may be exceeded at a point in time. Securities need not be liquidated to rebalance the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.

The portfolio diversification constraints are found in Table 1 below:

Table 1: **Portfolio Diversification Constraints**

Investment Type	MAXIMUM of Total Reserves	MAXIMUM by Institution/product/ pooled fund
<b><u>Short-Term (&lt; 2 year holding period)</u></b>		
Canadian Banks (Schedule 1) Deposits and/or GIC's	65%	35%
MFA Pooled Fund Products	50%	50%
Credit Unions (Rated/Insured) Deposits and/or GIC's	35%	20%
<b><u>Long-Term (&gt; 2 year holding period)</u></b>		
Canadian Banks (Schedule 1) Deposits and/or GIC's	65%	35%
MFA Pooled Fund Products	60%	30%
Credit Unions (Rated/Insured) Deposits and/or GIC's	35%	20%
Internal Projects (5+ years)	30%	-
Federal Bonds	20%	10%
Municipal Finance Authority of BC Bonds	20%	20%
Provincial Bonds	15%	15%
Municipal, Regional District or Greater Board Bonds	15%	15%

## Market Analysis

### **Applies to the Capital Regional District (CRD), the Capital Regional Hospital District (CRHD), and the Capital Region Housing Corporation (CRHC)**

As part of overall portfolio management, staff regularly monitor market trends and key metrics such as the Bank of Canada overnight interest rate, the Government of Canada bond rates and other market commentary issued by banks and investment brokers. Additionally, the Municipal Finance Authority (MFA) provides regular market commentary on new product developments and based on outlook reports provided by Phillips, Hager & North Investment Management (PH&N).

The economic theme for 2022 was one of market turbulence. Geopolitical conflict, rising interest rates and record inflation heightened recessionary risks for many economies as financial conditions came under pressure. Consequently, significant repricing in fixed income and equity markets were the result.

While 2022 market fixed income results were poor, yields across terms now offer attractive potential returns comprised of capital gains and income. Deposit rates (GICs and HISAs) began the 2022 at historically low levels but ended the year much higher, due to the impact of eight Bank of Canada interest rate hikes throughout the year.

Table 1 below presents key indicator rates at December 31 for the period 2020 to 2022:

**Table 1: Indicative Market Rates 2020 to 2022**

Rate	2020	2021	2022
Bank Of Canada – Overnight Rate	0.25% - 1.75%	0.25%	0.25% - 4.50%
HISA	0.80% - 1.06%	0.80 – 0.95%	0.72% - 4.80%
RBC – Bank Rate	0.80% - 2.30%	0.80%	0.70% - 4.70%
Fixed GIC – 180 day /1 Year (sample)	0.92% / 1.24%	0.40 – 0.70%	2.22% / 3.06%

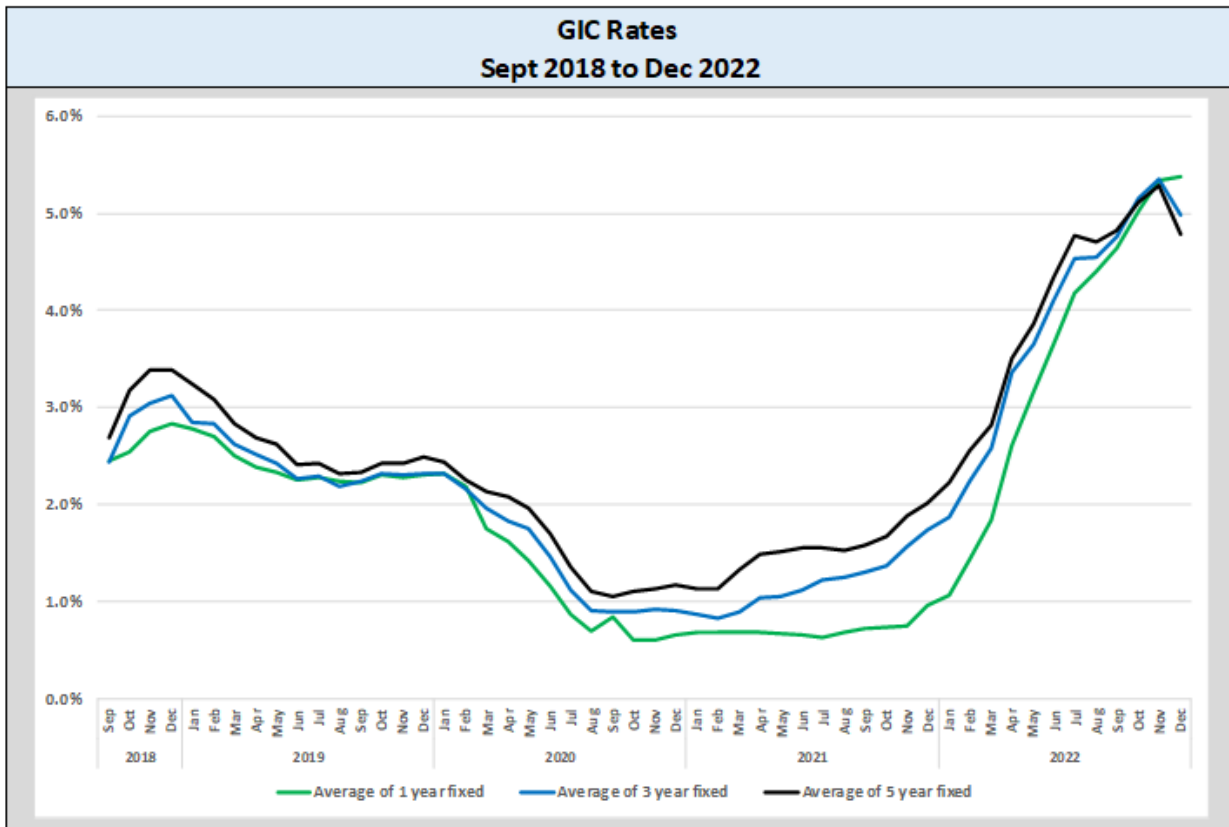
### **Investment Marketplace**

Throughout 2022, HISA rates rose but not as high as GIC rates, making them less competitive compared to fixed term GIC products. HISA allocations were driven by maintaining liquidity for unforeseen circumstances.

GIC rates increased significantly throughout 2022, exceeding the rate of increase on deposits. As shown in Graph 1, GIC rates were at their highest late in 2022, ending the year down slightly off the five-year high of 5.2%<sup>1</sup>.

<sup>1</sup> CRD treasury files

Graph 1: GIC Historical Rates (Short-Term)



In January 2022, the MFA introduced a Diversified Multi-Asset Class (DMAC) Fund. This DMAC Fund will invest in a diverse universe of securities such as corporate fixed income, common stocks and alternative asset classes such as infrastructure and real estate. The first \$15 million CRD investment was placed in the DMAC fund upon its opening by the MFA on January 17, 2022

The CRD also made a placement to the MFA Mortgage Fund, which invests in existing PH&N pooled fund products providing investment exposure to commercial investment grade mortgages.

The CRD continues to hold units in the MFA Fossil Fuel-Free Bond Fund (FFF) and the MFA Bond Fund. The FFF Bond Fund invests in securities similar to the existing bond fund except that the FFF option excludes those holdings directly related to non-renewable energy extraction, processing, and transportation. This additional screening is estimated to exclude approximately 4% of the population of investible securities compared to the existing bond fund.



Over the full calendar 2022 year, the Fossil-Fuel-Free Bond Fund (FFF Fund) underperformed the MFA Bond Fund on an annual basis by 0.16% (-3.59% versus -3.43% respectively). This discrepancy was primarily due to the difference in corporate exposure between the two portfolios, specifically energy exposure. The FFF Fund had a significantly lower weight in the energy sector compared to the bond fund, which was one of the top performing corporate sectors over the year. Additionally, the FFF Fund held a higher weight to the Real Estate and Financial sectors, which experienced substantial spread widening over the year. Cumulatively, these positioning changes resulted in the MFA Bond Fund outperforming the FFF Fund by approximately 0.16% over the full year 2022.

Staff will assess investment placements in existing and new MFA pooled funds in the future, for the CRD, the CRHD, and the CRHC, as the need to place long-term funds arises.

# MFA Pooled Investment Fund Monthly Performance Report

December 2022



Municipal Finance  
Authority of BC



# MFA Pooled Investment Fund Monthly Performance Report<sup>1</sup>

*As of December 31, 2022*

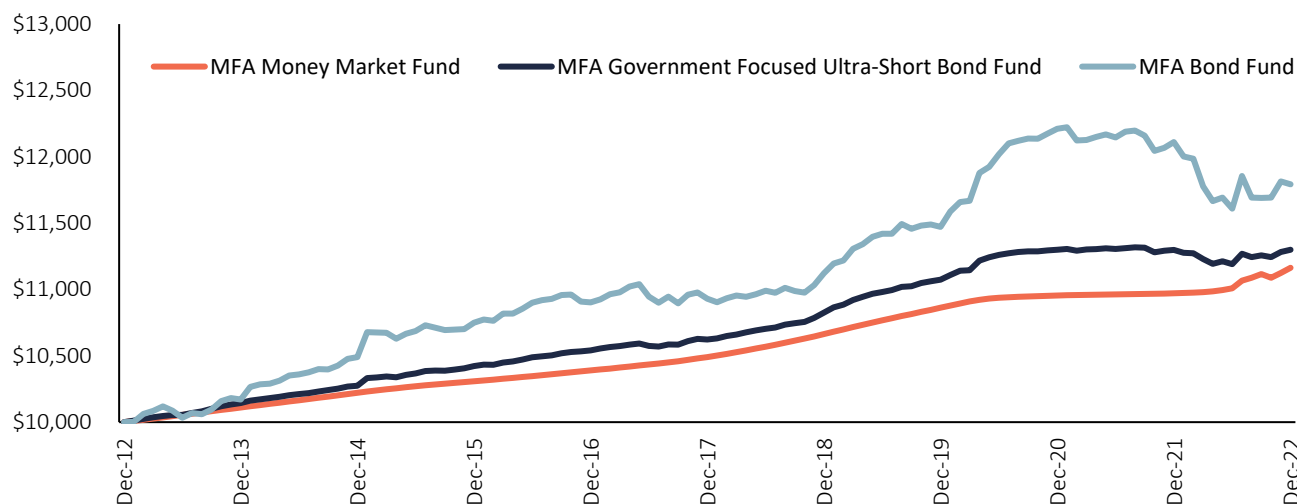
Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA Money Market Fund</b>	<b>0.35</b>	<b>0.98</b>	<b>1.93</b>	<b>1.93</b>	<b>0.97</b>	<b>1.29</b>	<b>3.55</b>
<i>FTSE Canada 30-day T-Bill Index</i>	<i>0.29</i>	<i>0.87</i>	<i>1.57</i>	<i>1.57</i>	<i>0.66</i>	<i>0.93</i>	<i>3.28</i>
<i>Difference</i>	<i>0.06</i>	<i>0.11</i>	<i>0.36</i>	<i>0.36</i>	<i>0.31</i>	<i>0.36</i>	<i>0.27</i>
<b>MFA Government Focused Ultra-Short Bond Fund</b>	<b>0.15</b>	<b>0.66</b>	<b>-0.17</b>	<b>-0.17</b>	<b>0.62</b>	<b>1.21</b>	<b>3.15</b>
<i>FTSE Canada 365-Day Treasury Bill Index</i>	<i>0.25</i>	<i>0.79</i>	<i>0.42</i>	<i>0.42</i>	<i>0.87</i>	<i>1.19</i>	<i>2.83</i>
<i>Difference</i>	<i>-0.10</i>	<i>-0.13</i>	<i>-0.59</i>	<i>-0.59</i>	<i>-0.25</i>	<i>0.02</i>	<i>0.32</i>
<b>MFA Bond Fund</b>	<b>-0.18</b>	<b>0.85</b>	<b>-3.43</b>	<b>-3.43</b>	<b>0.64</b>	<b>1.36</b>	<b>5.30</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	<i>-0.17</i>	<i>0.62</i>	<i>-4.24</i>	<i>-4.24</i>	<i>-0.17</i>	<i>0.81</i>	<i>4.99</i>
<i>Difference</i>	<i>-0.01</i>	<i>0.23</i>	<i>0.81</i>	<i>0.81</i>	<i>0.81</i>	<i>0.55</i>	<i>0.31</i>
<b>MFA Fossil Fuel Free Short-term Bond Fund</b>	<b>-0.20</b>	<b>0.79</b>	<b>-3.59</b>	<b>-3.59</b>	-	-	<b>-0.75</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	<i>-0.17</i>	<i>0.62</i>	<i>-4.24</i>	<i>-4.24</i>	-	-	<i>-1.34</i>
<i>Difference</i>	<i>-0.03</i>	<i>0.17</i>	<i>0.65</i>	<i>0.65</i>	-	-	<i>0.59</i>
<b>MFA Mortgage Fund</b>	<b>-0.49</b>	<b>0.07</b>	<b>-5.36</b>	<b>-5.36</b>	-	-	<b>0.00</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	<i>-0.17</i>	<i>0.61</i>	<i>-4.29</i>	<i>-4.29</i>	-	-	<i>-0.51</i>
<i>Difference</i>	<i>-0.32</i>	<i>-0.54</i>	<i>-1.07</i>	<i>-1.07</i>	-	-	<i>+0.51</i>
<b>MFA DMAC Fund</b>	<b>-1.80</b>	<b>5.67</b>	-	-	-	-	<b>-5.75</b>
<i>MFA DMAC Fund Custom Benchmark<sup>3</sup></i>	<i>-2.49</i>	<i>5.26</i>	-	-	-	-	<i>-5.22</i>
<i>Difference</i>	<i>+0.69</i>	<i>+0.41</i>	-	-	-	-	<i>-0.53</i>

<sup>1</sup>Total return less than one year is not annualized. Portfolio and benchmark performance is net of total fees and expenses of 12.5 basis points per annum (Money Market Fund and Government Focused Ultra-Short Bond Fund), 20 basis points per annum (Bond Fund and Fossil Fuel Free Short-term Bond Fund), and 25 basis points per annum (Mortgage Fund), and 33 basis points per annum (DMAC Fund).

<sup>2</sup>Inception dates: Money Market Fund – May 1, 1989; Government Focused Ultra-Short Bond Fund – May 18, 2020 (previously Intermediate Fund - March 30, 1994); Bond Fund – May 1, 1989; Fossil Fuel Free Bond Fund – May 5, 2020; Mortgage Fund – January 29, 2020; DMAC Fund – January 19, 2022.

<sup>3</sup>MFA DMAC Fund Custom Benchmark: 2% FTSE Canada 30 Day T-Bill Index, 15% FTSE Canada Short Term Overall Bond Index, 16% FTSE Canada 91 Day T-Bill Index, 17% S&P/TSX Capped Composite Total Return Index, 35% MSCI World Total Return Net Index (CAD), 12% MSCI Emerging Markets Total Return Net Index, 3% Canadian CPI (Non-Seasonally Adjusted) 1-month lag.

## Growth of \$10K Investment Over 10 Years\*



\*Portfolio and benchmark performance is net of fees

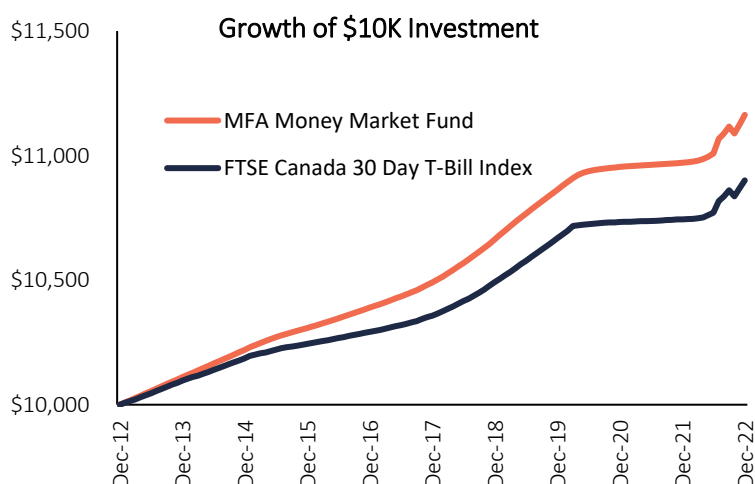
## MFA Money Market Fund

The principal objective of the Money Market Fund is to provide participating investors with interest income through investing primarily in high-quality money market instruments. The Fund will hold assets with maturities no longer than 366 days.

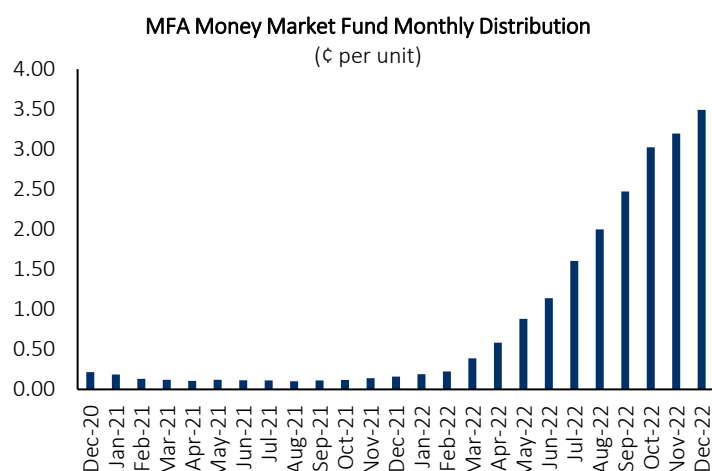
Government of Canada (GoC) bond yields increased across all terms in December. After initially declining on expectations that the monetary hiking cycle may have peaked, yields reversed course mid-month on the back of a higher than expected inflation report and restrictive actions and commentary from global central banks. Against this backdrop, the MFA Money Market Fund returned 0.35% over the month, slightly outperforming its benchmark.

Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA Money Market Fund<sup>1</sup></b>	<b>0.35</b>	<b>0.98</b>	<b>1.93</b>	<b>1.93</b>	<b>0.97</b>	<b>1.29</b>	<b>3.55</b>
<i>FTSE Canada 30-day T-Bill Index</i>	<i>0.29</i>	<i>0.87</i>	<i>1.57</i>	<i>1.57</i>	<i>0.66</i>	<i>0.93</i>	<i>3.28</i>
<i>Difference</i>	<i>0.06</i>	<i>0.11</i>	<i>0.36</i>	<i>0.36</i>	<i>0.31</i>	<i>0.36</i>	<i>0.27</i>

<sup>1</sup> Total return less than 1 year is not annualized. Portfolio and benchmark performance is net of annualized fee and expenses of 12.5 basis points per annum. <sup>2</sup> Inception date: May 1, 1989.



\*Portfolio and benchmark performance is net of fees



\*Distributions include all interest income and coupon payments earned on investments, and are paid daily. Total income, divided by the total units outstanding on record date, is the income distribution per unit paid to investors.

Fund Characteristics	Nov-30	Dec-31
Fund total net assets	\$1,454,050,281	\$1,423,383,684
Average term	44 days	45 days
Current yield	4.14%	4.41%
Number of issues	184	163
Number of issuers	43	37

Top 10 Holdings	% Assets
C.I.B.C. B/A	3.33%
T D BANK B/A	2.56%
NATL BK CDA B/A	2.10%
ENBRIDGE GAS INC D/N	2.07%
RIDGE TRUST D/N	1.90%
NATL BK CDA B/A	1.89%
BANK OF N.S. B/A	1.76%
BANK OF N.S. BDN	1.72%
FUSION TRUST D/N	1.66%
BMO FIRST BANK B/A	1.54%

Issuer Type	Nov-30	Dec-31
Financial	25.11%	32.72%
Non-Financial	74.89%	67.28%
Government*	0.00%	0.00%
Mortgages/MBS	0.00%	0.00%
Pooled fund cash	0.00%	0.00%

\*includes federal and provincial government

Rating	Nov-30	Dec-31
R1H	69.36%	73.33%
R1M	4.80%	9.26%
R1L	25.84%	17.41%

## MFA Government Focused Ultra-Short Bond Fund

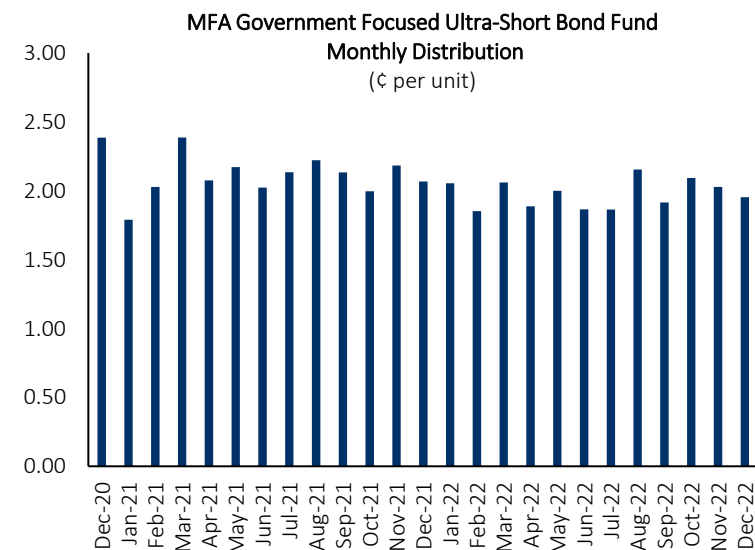
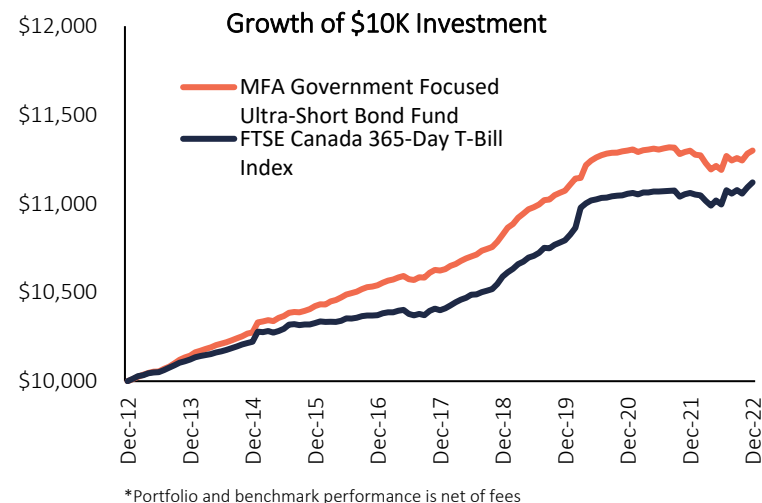
The principal objective of the Government Focused Ultra-short Bond Fund is to provide participating investors with interest income. The Fund aims to achieve moderate capital appreciation by actively managing Fund investments. The Fund will hold assets with maturities no longer than 2 years at the time of purchase.

Over the month, the MFA Government Focused Ultra-Short Bond Fund returned 0.15%, underperforming its benchmark. The fund remains biased towards high-quality provincial and financial corporate bonds given their yield advantage over similar term federal bonds.

Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA Government Focused Ultra-Short Bond Fund<sup>1</sup></b>	<b>0.15</b>	<b>0.66</b>	<b>-0.17</b>	<b>-0.17</b>	<b>0.62</b>	<b>1.21</b>	<b>3.15</b>
<i>FTSE Canada 365-Day Treasury Bill Index</i>	<i>0.25</i>	<i>0.79</i>	<i>0.42</i>	<i>0.42</i>	<i>0.87</i>	<i>1.19</i>	<i>2.83</i>
<i>Difference</i>	<i>-0.10</i>	<i>-0.13</i>	<i>-0.59</i>	<i>-0.59</i>	<i>-0.25</i>	<i>0.02</i>	<i>0.32</i>

<sup>1</sup> Total return less than 1 year is not annualized. Portfolio and benchmark performance is net of annualized fee and expenses of 12.5 basis points per annum.

<sup>2</sup> Government Focused Ultra-Short Bond Fund – May 18, 2020 (previously Intermediate Fund - March 30, 1994)



\*Distributions include all interest income and coupon payments earned on investments, and are paid monthly. Total income, divided by the total units outstanding on record date, is the income distribution per unit paid to investors.

Fund Characteristics	Nov-30	Dec-31
Fund total net assets	\$339,842,893	\$365,356,753
Average term	0.88 years	0.93 years
Current yield	4.52%	4.75%
Modified duration	0.84 years	0.89 years
Number of issues	10	11
Number of issuers	7	7

Top 10 Holdings	% Assets
Ontario 2.6%, Sep 8, 2023	25.07%
British Columbia 3.3%, Dec 18, 2023	13.35%
Canada Housing Trust 2.6%, Dec 15, 2023	12.74%
Ontario 2.9%, Jun 2, 2023	11.15%
Ontario 3.5%, Jun 2, 2024	8.14%
BMO 2.9%, Mar 6, 2024	8.07%
C.I.B.C. 2.4%, Aug 28, 2024	6.95%
RBC 3.3%, Sep 26, 2023	4.63%
Canada Housing Trust 2.4%, Sep 15, 2023	4.61%
TD 2.9%, Mar 8, 2024	3.19%

Issuer Type	Nov-30	Dec-31
Financial	24.92%	24.94%
Non-Financial	0.00%	0.00%
Government*	75.07%	75.07%
Mortgages/MBS	0.00%	0.00%
Pooled fund cash	0.00%	0.00%

\*includes federal and provincial government

Rating	Nov-30	Dec-31
AAA/R1H	15.13%	17.36%
AA/R1M	59.95%	57.71%
A/R1L	24.92%	24.94%

## MFA Bond Fund

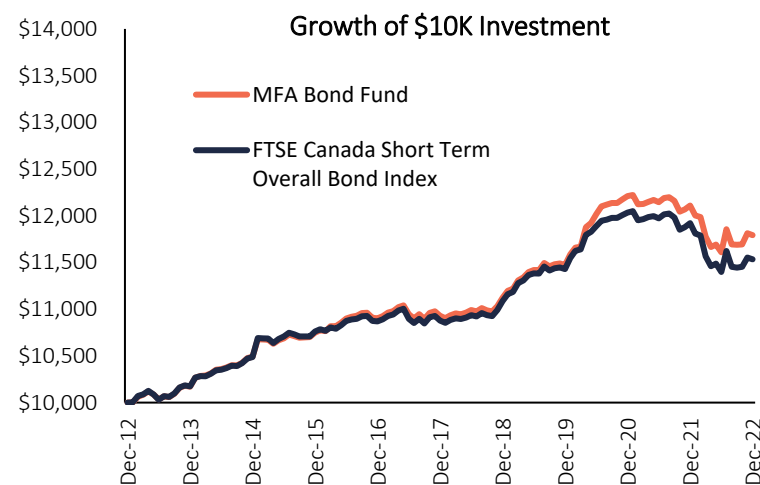
The principal objective of the short-term Bond Fund is to provide participating investors with interest income. The Fund aims to achieve moderate capital appreciation by actively managing Fund investments. The Fund will hold assets with maturities no longer than 7.25 years at the time of purchase. Typically, the fund's duration ranges around 3 years.

The MFA Bond Fund returned -0.18% over the month, performing in-line with its benchmark. The portfolio's short duration relative to the benchmark contributed to relative returns as yields increased, however this was offset by the portfolio's overweight allocation to high-quality credit which detracted from relative returns.

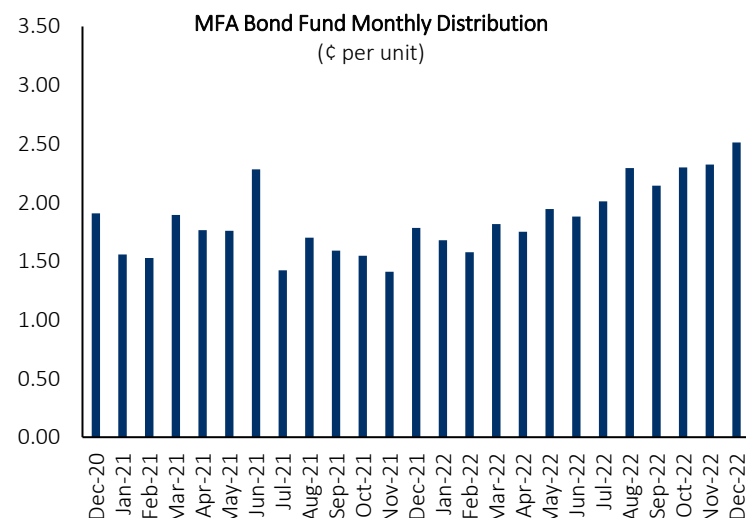
Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA Bond Fund<sup>1</sup></b>	<b>-0.18</b>	<b>0.85</b>	<b>-3.43</b>	<b>-3.43</b>	<b>0.64</b>	<b>1.36</b>	<b>5.30</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	<i>-0.17</i>	<i>0.62</i>	<i>-4.24</i>	<i>-4.24</i>	<i>-0.17</i>	<i>0.81</i>	<i>4.99</i>
<i>Difference</i>	<i>-0.01</i>	<i>0.23</i>	<i>0.81</i>	<i>0.81</i>	<i>0.81</i>	<i>0.55</i>	<i>0.31</i>

<sup>1</sup> Total return less than 1 year is not annualized. Portfolio and benchmark performance is net of annualized fee and expenses of 20 basis points per annum.

<sup>2</sup> Inception date: May 1, 1989



\*Portfolio and benchmark performance is net of fees



\*Distributions include all interest income and coupon payments earned on investments, and are paid monthly. Total income, divided by the total units outstanding on record date, is the income distribution per unit paid to investors.

Fund Characteristics	Nov-30	Dec-31
Fund total net assets	\$764,323,210	\$791,170,796
Average term	2.82 years	2.79 years
Current yield	4.39%	4.58%
Modified duration	2.60 years	2.56 years
Number of issues	147	150
Number of issuers	69	68

Top 10 Holdings	% Assets
Canada 3.0%, Nov 1, 2024	7.03%
Canada 2.8%, Sep 1, 2027	4.69%
Canada Housing Trust 3.6%, Dec 15, 2027	3.87%
Canada Housing Trust 1.0%, Jun 15, 2025	3.34%
Canada 3.8%, Feb 1, 2025	3.17%
Canada Housing Trust 1.6%, Dec 15, 2026	3.04%
Quebec 2.8%, Sep 1, 2027	2.98%
North West Redwater Pnr 3.2%, July 22, 2024	1.95%
Canada Housing Trust 1.3%, Jun 15, 2026	1.91%
A.T. & T. Inc 4.0%, Nov 25, 2025	1.79%

Issuer Type	Nov-30	Dec-31
Financial	13.73%	16.02%
Non-Financial	35.67%	34.68%
Government*	38.40%	36.98%
Mortgages/MBS	1.97%	1.89%
Pooled fund cash	10.23%	10.43%

\*Includes federal and provincial government

Rating	Nov-30	Dec-31
Cash & short term	10.23%	10.43%
AAA	32.80%	30.92%
AA	8.63%	9.33%
A	24.52%	26.76%
BBB & below	21.85%	20.67%
Mortgages/MBS	1.97%	1.89%

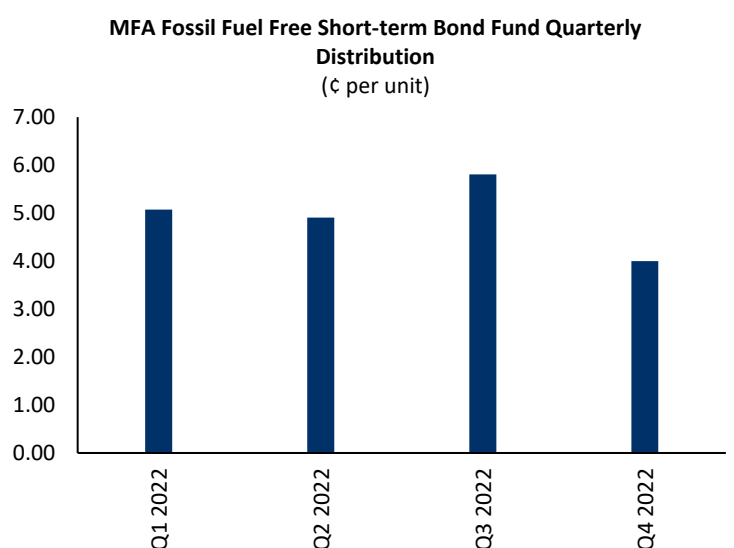
## MFA Fossil Fuel Free Short Term Bond Fund

The principal objective of the Fossil Fuel Free Short-Term Bond Fund is to provide participating investors with interest income. The Fund aims to achieve moderate capital appreciation by actively managing Fund investments. The Fund will hold assets with maturities no longer than 7.25 years at the time of purchase. The Fund shall not invest in securities of Issuers directly involved in the extraction, processing and transportation of coal, oil, or natural gas ("fossil fuels").

The MFA Fossil Fuel Free Short-Term Bond Fund returned -0.20% over the month, performing in-line with its benchmark. The portfolio's short duration relative to the benchmark contributed to relative returns as yields increased, however this was offset by the portfolio's overweight allocation to high-quality credit which detracted from relative returns.

Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA Fossil Fuel Free Short-term Bond Fund</b>	<b>-0.20</b>	<b>0.79</b>	<b>-3.59</b>	<b>-3.59</b>	-	-	<b>-0.75</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	<i>-0.17</i>	<i>0.62</i>	<i>-4.24</i>	<i>-4.24</i>	-	-	<i>-1.34</i>
<i>Difference</i>	<i>-0.03</i>	<i>0.17</i>	<i>0.65</i>	<i>0.65</i>	-	-	<i>0.59</i>

<sup>1</sup>Total return less than 1 year is not annualized. Portfolio and benchmark performance is net of annualized fee and expenses of 20 basis points per annum. <sup>2</sup>Inception date: May 5, 2020



\*Distributions include all interest income and coupon payments earned on investments, and are paid quarterly. Total income, divided by the total units outstanding on record date, is the income distribution per unit paid to investors.

Fund Characteristics	Nov-30	Dec-31
Fund total net assets*	\$169,639,130	\$199,164,302
Average term	2.83 years	2.79 years
Current yield	4.32%	4.52%
Modified duration	2.62 years	2.56 years
Number of issues	92	99
Number of issuers	40	41

\*MFA owns units of the RBC Vision Fossil Fuel Free Short-term Bond Fund (total size \$311,146,170)

Top 10 Holdings	% Assets
Canada 3.8%, Feb 01, 2025	5.68%
Canada 2.8%, Sep 1, 2027	5.25%
Canada 3.0%, Nov 1, 2024	4.06%
Quebec 2.8%, Sep 1, 2027	3.53%
Canada Housing Trust 1.0%, Jun 15, 2025	3.48%
Canada Housing Trust 3.6%, Dec 15, 2027	2.98%
Canada Housing Trust 1.6%, Dec 15, 2026	2.80%
BMO 2.3% Jun 15, 2026	2.34%
Canada Housing Trust 1.3%, Jun 15, 2026	2.22%
BCI Quadreal Realty 1.7%, March 3, 2025	2.14%

Issuer Type	Nov-30	Dec-31
Financial	18.57%	18.43%
Non-Financial	30.54%	31.73%
Government*	38.70%	35.80%
Mortgages/MBS	1.91%	1.54%
Pooled fund cash	10.28%	12.50%

\*includes federal and provincial government

Rating	Nov-30	Dec-31
Cash & short term	10.28%	12.50%
AAA	33.17%	28.53%
AA	11.28%	12.44%
A	27.54%	28.09%
BBB & below	15.83%	16.89%
Mortgages/MBS	1.91%	1.54%

## MFA Mortgage Fund

The principal objective of the Mortgage Fund is to provide participating investors with interest income, and diversification benefits by capitalizing on the illiquidity premium offered by the Canadian commercial mortgage markets. The Fund shall indirectly invest primarily in first mortgages on income producing commercial properties in Canada with an average term of 2 to 5 years.

The MFA Mortgage Fund returned -0.49% over the month, underperforming its benchmark. The portfolio's longer duration relative to its benchmark detracted from value added as yields increased. This more than offset the impact of commercial mortgage spreads tightening 4 bps during the month. Commercial mortgage spreads ended the month at a spread of 208 basis points over similar-term Government of Canada bonds.

Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA Mortgage Fund<sup>1</sup></b>	<b>-0.49</b>	<b>0.07</b>	<b>-5.36</b>	<b>-5.36</b>	-	-	<b>0.00</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	-0.17	0.61	-4.29	-4.29	-	-	-0.51
<i>Difference</i>	-0.32	-0.54	-1.07	-1.07	-	-	-0.51

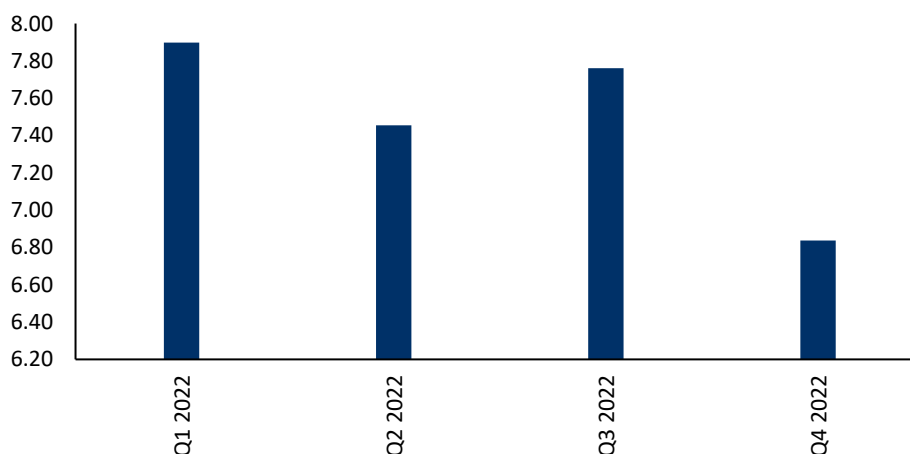
<sup>1</sup> Total return less than 1 year is not annualized. Portfolio and benchmark performance is net of annualized fee and expenses of 25 basis points per annum.

<sup>2</sup> Inception date: January 29, 2020

Fund Characteristics	Nov-30	Dec-31
Fund total net assets*	\$253,588,598	\$252,408,673
Weight average spread	212 bps over similar term GoC bonds	208 bps over similar term GoC bonds
Weighted average amortization	21.8 years	21.8 years
Average term-to-maturity	4.1 years	4.0 years
Current yield	5.61%	5.86%
Weighted average duration	3.2 years	3.1 years
Weighted loan-to-value	52%	52%
Weighted average cash flow coverage	1.7x	1.6x
Number of mortgages	510	494
Largest mortgage	2.3%	2.3%
Marketable securities & cash	7.7%	9.1%

\*MFA owns units of the PH&N Mortgage Pension Trust (total size \$4,948,395,983)

**MFA Mortgage Fund Quarterly Distribution**  
(¢ per unit)



\*Distributions include all interest income and coupon payments earned on investments, and are paid quarterly. Total income, divided by the total units outstanding on record date, is the income distribution per unit paid to investors.



## MFA DMAC Fund

The primary purpose of the DMAC Fund is to invest capital over the long-term to grow at a rate that exceeds inflation, while minimizing risk through asset class selection and diversification. The fund shall be broadly diversified among Fixed Income, Equities and Alternatives. The fund aims to provide risk-adjusted real returns of 3.5% over the long-term.

Over the month, the MFA DMAC fund returned -1.80%, outperforming its benchmark. The RBC QUBE Low Volatility Global Equity Fund and RBC QUBE Fossil Fuel Free Low Volatility Canadian Equity Fund were the top contributors to relative performance over the month as market volatility returned in December, with global indices down over the month. The low volatility strategies performed as expected in this environment, protecting capital and outperforming broad markets due to their emphasis on the highest quality and most stable areas of the market. No strategies materially underperformed their benchmarks during the month.

Please note that the fund is currently in transition while we build up the fund's sector allocations to the target asset mix. As such, relative performance at the headline DMAC fund level is not as indicative of manager skill during this interim period.

Fund Characteristics	Nov-30	Dec-31
Fund total net assets	\$408,870,541	\$408,587,173

Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>MFA DMAC Fund<sup>1</sup></b>	<b>-1.80</b>	<b>5.67</b>	-	-	-	-	<b>-5.75</b>
<i>MFA DMAC Fund Custom Benchmark<sup>3</sup></i>	-2.49	5.26	-	-	-	-	-5.22
<i>Difference</i>	+0.69	+0.41	-	-	-	-	-0.53
<b>MFA DMAC Fund<sup>1</sup></b>	<b>-1.80</b>	<b>5.67</b>	-	-	-	-	<b>-5.75</b>
<i>Canadian CPI (Non-Seasonally Adjusted) 1-month lag + 3.5%<sup>4</sup></i>	0.37	1.64	-	-	-	-	9.81
<i>Difference</i>	-2.17	+4.03	-	-	-	-	-15.56

<sup>1</sup> Total return less than 1 year is not annualized. Portfolio and benchmark performance is net of annualized fee and expenses of 33 basis points per annum.

<sup>2</sup> Inception date: January 19, 2022

<sup>3</sup> MFA DMAC Fund Custom Benchmark: 2% FTSE Canada 30 Day T-Bill Index, 15% FTSE Canada Short Term Overall Bond Index, 16% FTSE Canada 91 Day T-Bill Index, 17% S&P/TSX Capped Composite Total Return Index, 35% MSCI World Total Return Net Index (CAD), 12% MSCI Emerging Markets Total Return Net Index, 3% Canadian CPI (Non-Seasonally Adjusted) 1-month lag.

<sup>4</sup> MFA DMAC Fund secondary benchmark

Asset Mix	Midpoint Target Allocation <sup>1</sup>	Nov-30	Dec-31
<b>Alternative Investments</b>	<b>15%</b>	<b>6.6%</b>	<b>6.7%</b>
RBC Canadian Core Real Estate Fund	5%	5.3%	5.3%
High Yield Mortgages	5%	1.3%	1.4%
Infrastructure	5%	0.0%	0.0%
<b>Equity Investments</b>	<b>60%</b>	<b>64.7%</b>	<b>64.1%</b>
Emerging Market Equity	10%	11.1%	10.9%
Global Equities (low volatility)	11%	12.9%	12.8%
Canadian Equities	10%	10.9%	10.4%
Global Equities	24%	23.0%	23.3%
Canadian Equities (low volatility)	5%	6.8%	6.6%
<b>Fixed Income Investments</b>	<b>25%</b>	<b>28.7%</b>	<b>29.3%</b>
Canadian Bonds	15%	14.1%	14.7%
Global Bonds	10%	14.6%	14.6%
<b>Cash</b>	<b>0%</b>	<b>0.0%</b>	<b>0.0%</b>

<sup>1</sup>The Fund Manager is authorized to tactically allocate a strategy's total portfolio weight within approved ranges, generally about +/- 5% - these target portfolio weights represent the mid-point of approved ranges

# MFA DMAC Fund – Underlying Fund Gross of Fee Returns<sup>1</sup>

As of December 31, 2022

Total Return (%)	1 Month	3 Months	YTD	1 Year	3 Years	5 Years	Since Inception <sup>2</sup>
<b>PH&amp;N Short Core Plus Bond Fund</b>	<b>-0.13</b>	<b>1.14</b>	-	-	-	-	<b>-2.62</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	-0.15	0.67	-	-	-	-	-3.11
<i>Difference</i>	+0.02	+0.47	-	-	-	-	+0.49
<b>BlueBay Total Return Credit Fund</b>	<b>0.59</b>	<b>5.39</b>	-	-	-	-	<b>-8.19</b>
<i>FTSE Canada 91 Day T-Bill Index</i>	0.34	1.00	-	-	-	-	1.86
<i>Difference</i>	+0.25	+4.39	-	-	-	-	-10.05
<b>PH&amp;N Canadian Equity Fund</b>	<b>-4.69</b>	<b>5.96</b>	-	-	-	-	<b>-5.34</b>
<i>S&amp;P/TSX Capped Composite Total Return Index</i>	-4.90	5.96	-	-	-	-	-5.83
<i>Difference</i>	+0.21	0.00	-	-	-	-	+0.49
<b>RBC QUBE Fossil Fuel Free Low Volatility Canadian Equity Fund</b>	<b>-2.77</b>	<b>5.32</b>	-	-	-	-	<b>-1.62</b>
<i>S&amp;P/TSX Capped Composite Total Return Index</i>	-4.90	5.96	-	-	-	-	-5.83
<i>Difference</i>	+2.13	-0.64	-	-	-	-	+4.21
<b>RBC Vision Fossil Fuel Free Global Equity Fund</b>	<b>-3.67</b>	<b>6.50</b>	-	-	-	-	<b>-11.67</b>
<i>MSCI World Total Return Net Index (CAD)</i>	-4.30	8.24	-	-	-	-	-7.60
<i>Difference</i>	+0.63	-1.74	-	-	-	-	-4.07
<b>RBC QUBE Low Volatility Global Equity Fund</b>	<b>-1.03</b>	<b>8.95</b>	-	-	-	-	<b>2.10</b>
<i>MSCI World Total Return Net Index (CAD)</i>	-4.30	8.24	-	-	-	-	-7.60
<i>Difference</i>	+3.27	+0.71	-	-	-	-	+9.70
<b>RBC Vision Fossil Fuel Free Emerging Markets Equity Fund</b>	<b>-1.56</b>	<b>10.79</b>	-	-	-	-	<b>-9.23</b>
<i>MSCI Emerging Markets Total Return Net Index (CAD)</i>	-1.46	8.18	-	-	-	-	-14.05
<i>Difference</i>	-0.10	+2.61	-	-	-	-	+4.82
<b>PH&amp;N High Yield Mortgage Fund</b>	<b>0.35</b>	<b>1.41</b>	-	-	-	-	<b>3.83</b>
<i>FTSE Canada Short Term Overall Bond Index</i>	-0.15	0.67	-	-	-	-	-0.93
<i>Difference</i>	+0.50	+0.74	-	-	-	-	+4.76
<b>RBC Canadian Core Real Estate Fund</b>	<b>0.42</b>	<b>1.39</b>	-	-	-	-	<b>12.47</b>
<i>Canadian CPI (Non-Seasonally Adjusted) 1-month lag + 4%</i>	0.45	1.86	-	-	-	-	10.58
<i>Difference</i>	-0.03	-0.47	-	-	-	-	+1.89

<sup>1</sup> Total return less than one year is not annualized. Portfolio and benchmark performance is gross of total fees.

<sup>2</sup>Inception date: DMAC Fund – January 19, 2022. <sup>3</sup>Inception date: PH&N High Yield Mortgage Fund – April 1, 2022. <sup>4</sup>Inception date: RBC Canadian Core Real Estate Fund – January 31, 2022.

### Long Term Monitoring

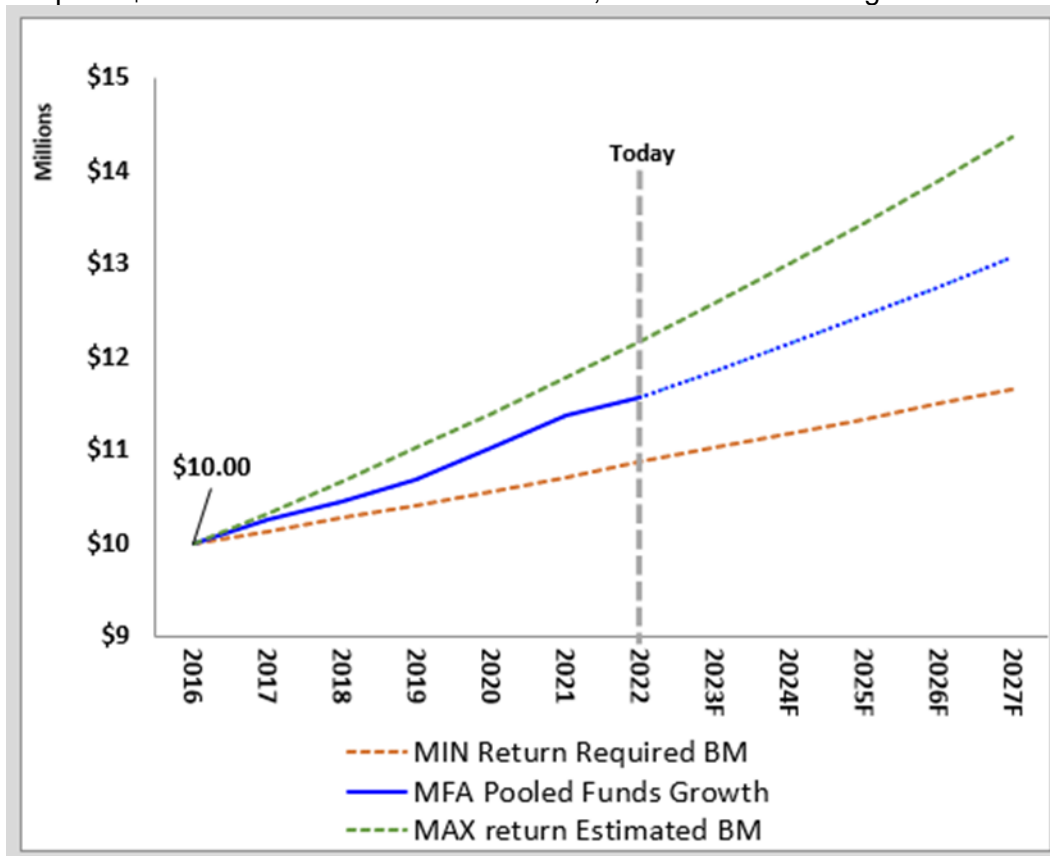
MFA benchmarks each fund to an appropriate benchmark in order to evaluate fund manager performance. The MFA conducts rigorous periodic review of the MFA investment pooled fund performance.

Additionally, CRD treasury staff internally monitor the performance of MFA pooled fund performance over time by comparing historic and forecast performance of MFA pooled funds against a passive long-term benchmark using a rolling average of returns methodology. This methodology reduces the impact of short-term volatility and provides a more realistic picture of long-term investment results.

Actual MFA pooled fund returns are used in the portfolio monitoring and forecasts. Where funds have less than a full 5-year of history, estimated returns are used for performance evaluation at the portfolio level. Rolling GIC data from Statistics Canada are used for the passive long-term minimum benchmark calculations.

Graph 1 shows the actual results when measuring average return on \$10 million initial investment in MFA pooled fund over a long term holding period. The green upper bound is best case return expected and the red is the minimum return required to hold long term investments.

Graph 1: \$10 million Invested in Pooled Fund, actual results in range





Making a difference...together

## REPORT TO HOSPITALS AND HOUSING COMMITTEE MEETING OF WEDNESDAY, MARCH 01, 2023

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**SUBJECT**     **Capital Regional District Land Banking and Housing Land Acquisition Financing**

### **ISSUE SUMMARY**

To report on options to fund land acquisitions for affordable housing.

### **BACKGROUND**

On September 21, 2022, the Capital Regional District (CRD) Board passed a motion directing staff *to report back on options for increasing funding for land acquisition for housing*.

On July 13, 2022, the Board directed staff to proceed on priorities identified in the *Future Housing Priorities and Partnerships* report, which included land acquisition for affordable housing.

Land values in the capital region continue to appreciate annually, increasing economic barriers to develop affordable housing. Front loading land acquisition can mitigate downstream costs by leveraging the time value of land, enabling greater flexibility to deliver more affordable housing.

Since receiving Board direction, staff have begun exploring the possibility of establishing an acquisition fund with the intention of working collaboratively with other levels of government to preserve existing Naturally Occurring Affordable Housing (NOAH). Staff are also seeking to acquire land that provide “shovel ready” development opportunities or could be held for future residential development.

Through the remainder of 2023, staff will continue to advance a range of activities including the exploration of funding alternatives, business cases, eligibility criteria, roles and responsibilities of potential funding partners and plans for monitoring and reporting as well as other related activities. Once complete, staff will report back to the Hospital and Housing Committee for direction.

This information report focuses on options to fund land acquisition for housing purposes and is intended to support continued exploration of a potential acquisition fund that is still under development.

### **IMPLICATIONS**

#### *Analysis*

#### **Authority**

Under Bylaw No. 3712, the Land Banking and Housing (LBH) Service (Service No. 1.310) has authority to acquire and assemble land for the purpose of housing. The existing service establishment bylaw currently has a maximum requisition limit (based on property assessment values) and has an existing loan authorization bylaw. The borrowing limit currently authorized is \$35 million and is entirely committed to the existing program approved in the service and financial

plans. Incremental commitments would require service establishment amendments and a new loan authorization bylaw. Regional cost apportionment for this service is based on property assessments.

Under Bylaw No. 3266, the Regional Housing and Trust (RHTF) Service (Service No. 1.311) has authority to raise up to \$1 million and contribute those funds to projects that include funds from other partners. The existing cost apportionment is 50% property assessments and 50% population. Additionally, there is an option for a participant to voluntarily increase their contribution. The service currently has sub-regional participation consisting of 11 municipalities and two electoral areas. The available capacity within this service is limited to the maximum requisition of \$1 million, has no borrowing authority and is not authorized to directly acquire or hold property. Its purpose is to act in the limited capacity as a contributor, assisting with the acquisition and pursuit of affordable housing projects.

The Capital Regional Housing Corporation (CRHC) is a wholly owned not-for-profit organization of the CRD providing affordable housing in the region. The CRHC is also able to finance land purchases for the purpose of developing and operating affordable housing, however, the CRHC has limited borrowing and revenue capacity based on the inherent operating model.

### **Economic Indicators**

While interest rates and the cost of borrowing are increasing and subsequently translating to higher costs, there has been an offsetting impact on real estate valuation in the region. Additionally, domestic interest rate forecasts are signaling stabilization in the coming year. With local demand continuing to show year-over-year increases in real estate values, analysis supports asset value growth net of financing costs.

### **Capacity**

The LBH service can increase requisition regionally to increase funding for land acquisition. Requisition funding can be used to pay cash or to service debt borrowed for acquisitions. Borrowing can increase the amount of purchases through leverage and is advantageous when appreciation exceeds the cost of debt.

Two alternatives (listed below) simulate scenarios to increase funding for acquisition where each is incremental to existing program commitments.

Alternative 1 considers requisition to fund acquisitions directly. Paying cash provides immediate funding for acquisitions or to be set aside in an acquisition fund. Table 1 below provides estimated impact of increasing requisition by \$0.5 million, \$1 million and \$5 million:

**Table 1: Revenue Implications – Cash for Acquisitions**

Description	2023 Financial Plan	Scenario					
		A		B		C	
LBH \$ Requisition	\$1.4 million	+\$0.5 million		+\$1.0 million		+\$5.0 million	
LBH Change per Avg HH	\$7	+\$3	+34%	+\$5	+68%	+\$26	+338%
Total CRD Cost/Avg HH	\$509	\$512	+0.6%	\$514	+1%	\$535	+5%

Alternative 2 considers requisition to fund acquisitions by repaying debt over time. Table 2 shows total principal available with the same increased requisition funding as considered in Table 1.

**Table 2: Revenue Implications – Borrowing for Acquisitions**

Description	2023 Financial Plan	Scenario					
		A		B		C	
LBH Borrowing		\$8.5 million		\$20 million		\$85 million	
LBH \$ Requisition	\$1.4 million	+\$0.5 million		+\$1.0 million		+\$5.0 million	
LBH Change per Avg HH	\$7	+\$3	+34%	+\$5	+68%	+\$26	+338%
Total CRD Cost/Avg HH	\$509	\$512	+0.6%	\$514	+1%	\$535	+5%

Revenue implications in Table 1 and Table 2 indicate a general impact on revenue and borrowing capacity only, they do not represent acquisition cost estimates and do not reflect size and scale of an acquisition program. These estimates can be used by Committee in considering appropriate affordable housing strategies. A report addressing program development will be brought back to a future Committee meeting.

## **CONCLUSION**

On September 21, 2022, the CRD Board passed a motion directing staff to report back on options for increasing funding for land acquisition for affordable housing. On July 13, 2022, the Board directed staff to proceed on priorities as identified in the *Future Housing Priorities and Partnerships* report, which included land acquisition for affordable housing. This information report focuses on options to fund land acquisition for housing purposes and is intended to support the acquisition fund currently under development. An increase to funding for land acquisition, beyond

the existing revenue and authorized capacity already committed, would require a service establishment bylaw amendment and potentially the approval of a new loan authorization.

**RECOMMENDATION**

There is no recommendation. This report is for information only.

Submitted by:	Rianna Lachance, BCom, CPA, CA, Senior Manager, Financial Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

**REPORT TO HOSPITALS AND HOUSING COMMITTEE  
MEETING OF WEDNESDAY, MARCH 01, 2023**

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**SUBJECT**      **Capital Region Housing Corporation Financial Plan Amendment**

**ISSUE SUMMARY**

To amend the Capital Region Housing Corporation (CRHC) 2023 Financial Plan to fund increases in labour, benefits and furniture costs.

**BACKGROUND**

The Capital Region Housing Corporation Board approved the 2023 Financial Plan on December 14, 2022. Amendments are required to incorporate changes to the budget when known impacts exceed approval. These amendments occur for material changes in assumptions or estimates; typically for recognition of grants received, capital expenditures and unforeseen or emergency circumstances.

On November 24, 2022, the 2022-2024 Canadian Union of Public Employees (CUPE) Collective Agreement was ratified, which included financial impacts requiring amendments to the plan. In addition to CUPE wage rates, there are exempt wage adjustments that also require revision in alignment with the exempt compensation bylaw. This amendment captures these to the 2023-2027 CRHC Administration and Development Services and Portfolio Operating Budgets.

Additionally, in 2022, an office expansion of CRHC administration occurred to accommodate planned growth, requiring procurement of new furniture and equipment. As these expenditures have now been reconciled and forecasts have been adjusted, 2023 revisions are also included in this amendment, concluding the furniture and equipment costs required to support the current staffing level.

**ALTERNATIVES**

*Alternative 1*

The Hospitals and Housing Committee recommends to the Capital Region Housing Corporation Board:

That the Capital Region Housing Corporation Financial Plan Amendment be approved as attached.

*Alternative 2*

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

**IMPLICATIONS**

*Financial Implications*

The CRHC Financial Plan is divided into various operating budgets. Costs in the Administration and Building Portfolio Budgets are funded through tenant rents and operating subsidies from BC Housing. Costs in the Development Services Budget are funded through project management fees from the various capital projects currently underway. Operating deficits are considered to be



one-time in nature and are funded from the corresponding operating reserves. Table 1 shows the impacts of each amendment to each operating budget and the total change from the approved 2023 Operating Budgets.

**Table 1: Summary of 2023 CRHC Operating Budget Amendments**

Operating Budget	Salary Impact	Furniture Impact	2023 Budget Change \$	Funding Source
Administration	-	-	-	Allocation
Development Services	(23,680)	-	(23,680)	Reserve
UOA	(100,567)	(28,917)	(129,484)	Reserve
NOA	(11,545)	(3,321)	(14,866)	Reserve
ILBC	-	-	Note 1	-
RHFP	(53,470)	(15,566)	(69,036)	Reserve
IHI	(7,615)	(1,971)	(9,586)	Reserve
CHF	-	-	Note 2	Grant
<b>Total</b>	<b>(196,877)</b>	<b>(49,775)</b>	<b>(246,652)</b>	

*Note 1: The Independent Living BC (ILBC) Portfolio (Parry Place) is on a fixed five-year budget cycle approved by BC Housing. A consumer price index provision is provided each year which is expected to cover inflationary pressures and cannot be renegotiated in term.*

*Note 2: The Community Housing Fund (CHF) Portfolio receives an ongoing monthly operating subsidy from BC Housing which is adjusted throughout the year to allow the portfolio to balance to zero.*

*Acronyms: Umbrella Operating Agreement (UOA), No Operating Agreement (NOA), Regional Housing First Program (RHFP) and Investment in Housing Innovation (IHI).*

Each of the operating budgets has its own operating reserve to/from which any planned or unplanned surpluses/deficits flow. The impact of the increased costs is that operating surpluses in 2022 and 2023 will be lower and corresponding contributions to operating reserves will also be lower as summarized in Table 2.

**Table 2: Summary of Impacts to Operating Reserves**

Operating Reserve	2023 Approved Estimated Ending Balance	2022 Retro Pay Impact	2023 Budget Amendment Impact	2023 Amended Estimated Ending Balance
Corporate	675,851	(66,200)	-	609,651
Development Services	95,843	(6,454)	(23,680)	65,709
UOA	3,529,383	(21,497)	(129,484)	3,378,402
NOA	1,030,280	(2,330)	(14,866)	1,013,084
ILBC	(235,490)	-	-	(235,490)
RHFP	585,646	(9,815)	(69,036)	506,795
IHI	527,052	(1,811)	(9,586)	515,655
CHF	-	-	-	-
<b>Total</b>	<b>6,208,565</b>	<b>(108,107)</b>	<b>(246,652)</b>	<b>5,853,806</b>

## **CONCLUSION**

On November 24, 2022, the 2022-2024 CUPE Collective Agreement was ratified, which included financial impacts requiring amendments to the plan. In addition to CUPE wage rates, there are exempt wage adjustments that also require revision in alignment with the exempt compensation bylaw. Additionally, in 2022, an office expansion of CRHC administration occurred to accommodate planned growth, requiring procurement of new furniture and equipment. As a result, the CRHC Administration and Development Services and Portfolio Operating Budgets require amendment.

## **RECOMMENDATION**

The Hospitals and Housing Committee recommends to the Capital Region Housing Corporation Board:

That the Capital Region Housing Corporation Operating and Administration Portfolio financial plan amendments be approved as attached.

Submitted by:	Rianna Lachance, BCom, CPA, CA, Senior Manager, Financial Services
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

## **ATTACHMENTS**

Appendix A: 2023 CRHC Amended Administration Budget

Appendix B: 2023 CRHC Amended Umbrella Operating Agreement Budget

Appendix C: 2023 CRHC Amended No Operating Agreement Budget

Appendix D: 2023 CRHC Amended Regional Housing First Program Agreement Budget

Appendix E: 2023 CRHC Amended Investment in Housing Innovation Agreement Budget

Appendix F: 2023 CRHC Amended Community Housing Fund Agreement Budget

Appendix G: 2023 CRHC Amended Development Services Budget

**CAPITAL REGION HOUSING CORPORATION  
2023 ADMINISTRATION BUDGET**

**APPENDIX A**

	2022 Board Amended	2022 Estimated Actuals	2022 Budget \$ Variance	2022 Budget % Variance	2023 CRHC Proposed	2023 Budget \$ Change	2024 Forecast Estimate	2025 Forecast Estimate	2026 Forecast Estimate	2027 Forecast Estimate
<b>REVENUE</b>										
Property Management Fees	2,930,317	2,914,423	(15,894)	-0.5%	3,511,854	(3) 581,537	3,717,081	4,051,191	4,162,590	4,519,546
Interest Income	75,000	75,000	-	0.0%	75,000	-	75,000	75,000	75,000	75,000
<b>TOTAL REVENUE</b>	3,005,317	2,989,423	(15,894)	-0.5%	3,586,854	581,538	3,792,081	4,126,191	4,237,590	4,594,546
<b>EXPENDITURES</b>										
Salaries & Benefits - CRHC Administration Staff	1,984,972	1,703,700	(1) 281,272	14.2%	2,460,590	(4) 475,618	2,645,969	2,887,571	2,974,198	3,234,092
Training (includes related travel costs)	12,000	9,000	3,000	25.0%	12,000	-	12,779	13,810	14,086	15,169
CRD Allocations	834,545	834,545	-	0.0%	856,742	22,196	912,343	985,982	1,005,702	1,082,966
Consultants/Legal/Audit	32,000	41,500	(9,500)	-29.7%	34,600	2,600	36,846	39,819	40,616	43,736
Tenant Engagement Program	20,000	18,500	1,500	7.5%	20,000	-	21,298	23,017	23,477	25,281
Office Operating Costs	91,799	68,660	(2) 23,139	25.2%	92,922	1,123	98,953	106,940	109,078	117,458
Transfer to Equipment Replacement Reserve	10,000	10,000	-	0.0%	10,000	-	10,649	11,509	11,739	12,641
Capital Equipment - new computers/furniture		-	-	N/A		-	-	-	-	-
Capital Purchases - New office equipment	20,000	300,000	(280,000)	-1400.0%	100,000	(5) 80,000	53,245	57,543	58,693	63,203
<b>TOTAL EXPENDITURES</b>	3,005,317	2,985,905	19,411	0.6%	3,586,854	581,537	3,792,081	4,126,191	4,237,590	4,594,546
<b>TOTAL ADMINISTRATION Surplus/(Deficit)</b>	-	3,518	3,518	-	-	-	-	-	-	-
<b>Beginning Balance Corporation Stabilization Reserve</b>		664,933			609,651		609,651	609,651	609,651	609,651
Estimated Surplus/(Deficit)		3,518			-		-	-	-	-
2022 Transfer (to) Development Services		(58,800)								
<b>Ending Balance Corporation Stabilization Reserve</b>		609,651			609,651		609,651	609,651	609,651	609,651
<b>Total number of units in operation across all CRHC portfolios</b>	1,893				1,931		2,016	2,136	2,136	2,255

**Notes (for variances +/- 10% and \$10,000)**

- (1) 2022 Salary variance due to staff vacancies.
- (2) 2022 Office Operating Costs lower than budgeted mainly due to office supplies.
- (3) 2023 Property Management Fees increase due to annualization of 2782 Spencer and one new building in 2023 (Prosser Road.)
- (4) 2023 Salary increase due to 5.0 new FTEs:
  - J15 Property Manager, Maintenance
  - J15 Property Manager, Tenant Engagement
  - J15 Property Manager, Tenant Admin Coordinator
  - J12 Tenant Services Assist
  - J12 Property Assist
- (5) 2023 Equipment purchases include 5 new workstations for the 5 new FTEs.

## CAPITAL REGION HOUSING CORPORATION

## 2023 UMBRELLA AGREEMENT OPERATING BUDGET SUMMARY

- 38 Properties: 1,071 units mixed income family/seniors housing

## APPENDIX B

	2022 Board Amended	2022 Estimated Actuals	2022 Budget \$ Variance	2022 Budget % Variance	2023 CRHC Proposed	2023 Budget \$ Change	2024 Forecast Estimate	2025 Forecast Estimate	2026 Forecast Estimate	2027 Forecast Estimate
<b>Revenue</b>										
BCHMC Subsidy	2,705,368	2,712,627	7,259	0.3%	2,668,328	(37,040)	2,423,897	1,938,344	1,776,265	1,536,271
Tenant Rent Contribution	9,965,150	10,232,700	267,550	2.7%	10,306,910	341,760	10,513,048	10,723,309	10,937,775	11,156,531
Misc Revenue - parking and laundry	45,900	56,850 (1)	10,950	23.9%	55,064	9,164	55,615	56,171	56,733	57,300
<b>Total Revenue</b>	<b>12,716,418</b>	<b>13,002,177</b>	<b>285,759</b>	<b>2.2%</b>	<b>13,030,302</b>	<b>313,884</b>	<b>12,992,560</b>	<b>12,717,824</b>	<b>12,770,773</b>	<b>12,750,102</b>
<b>Expenditures</b>										
Audit	17,920	18,826	(906)	-5.1%	19,710	1,790	-	-	-	-
Caretaker	1,246,208	1,149,669	96,539	7.7%	1,337,540	91,333	1,377,667	1,418,997	1,461,567	1,505,414
Garbage	226,136	230,245	(4,109)	-1.8%	304,369 (4)	78,233	310,456	316,666	322,999	329,459
Gas	101,740	131,990 (2)	(30,250)	-29.7%	134,920 (5)	33,180	137,618	140,371	143,178	146,042
Hydro	241,100	238,567	2,533	1.1%	260,530	19,430	265,741	271,055	276,477	282,006
Insurance Premium	781,850	738,297	43,553	5.6%	806,585	24,735	822,717	839,171	855,954	873,073
Insurance Deductible	59,467	41,455 (3)	18,012	30.3%	- (6)	(59,467)	-	-	-	-
Landscape Maintenance	327,356	311,069	16,287	5.0%	333,880	6,524	340,557	347,369	354,316	361,402
Land Lease	63,000	63,000	-	0.0%	63,000	-	63,000	63,000	63,000	63,000
Leblond Strata	19,146	20,942	(1,795)	-9.4%	17,972	(1,174)	18,332	18,698	19,072	19,454
Maintenance	735,979	744,180	(8,201)	-1.1%	839,021 (7)	103,043	855,802	872,918	890,376	908,184
Management Fee	1,663,093	1,663,093	0	0.0%	1,968,239 (8)	305,146	1,974,699	2,031,285	2,087,142	2,146,534
Mortgage Payments	3,907,519	3,899,495	8,024	0.2%	3,858,700	(48,819)	3,579,092	2,883,787	2,660,415	2,387,217
Property Taxes	4,180	4,064	116	2.8%	4,230	50	4,315	4,401	4,489	4,579
Transfer to Replacement Reserve	2,200,000	2,200,000	-	0.0%	2,200,000	0	2,200,000	2,200,000	2,200,000	2,200,000
Water	925,970	968,961	(42,991)	-4.6%	1,033,610 (9)	107,640	1,054,282	1,075,368	1,096,875	1,118,813
<b>Total Expenditures</b>	<b>12,520,664</b>	<b>12,423,854</b>	<b>96,810</b>	<b>0.8%</b>	<b>13,182,306</b>	<b>661,642</b>	<b>13,004,277</b>	<b>12,483,085</b>	<b>12,435,859</b>	<b>12,345,176</b>
<b>Total Umbrella Agreement Surplus/(Deficit)</b>	<b>195,754</b>	<b>578,323</b>	<b>382,570</b>	<b>-</b>	<b>(152,004)</b>	<b>-</b>	<b>(11,717)</b>	<b>234,739</b>	<b>334,913</b>	<b>404,926</b>
<b>Beginning Balance UOA Stabilization Reserve</b>		2,914,641			3,530,406		3,378,402	3,366,685	3,601,424	3,936,338
Operating Surplus/(Deficit)		578,323			(152,004)		(11,717)	234,739	334,913	404,926
Caledonia Operation		37,442			-					
<b>Ending Balance UOA Stabilization Reserve</b>		<b>3,530,406</b>			<b>3,378,402</b>		<b>3,366,685</b>	<b>3,601,424</b>	<b>3,936,338</b>	<b>4,341,264</b>
<b>Number of units in operation in portfolio</b>	<b>1,142</b>				<b>1,071</b>		<b>1,071</b>	<b>1,071</b>	<b>1,071</b>	<b>1,071</b>

## Notes (for variances +/- 10% and \$10,000)

(1) 2022 Other revenue variance due to increased uptake of paid parking.

(2) 2022 Gas variance due to increased rates and consumption.

(3) 2022 Insurance Deductible variance due to approval to utilize RR for large deductibles.

(4) 2023 Garbage increase due to contract rate increases.

(6) 2023 Insurance deductible removed from operating budget due to approval to uti

(7) 2023 Maintenance budget increase due to contract increases.

(8) 2023 Management Fee set at \$146 per unit per month required to balance Admi

(9) 2023 Water increase due to increased water rates.

**CAPITAL REGION HOUSING CORPORATION**  
**2023 NO OPERATING AGREEMENT BUDGET SUMMARY**

**APPENDIX C**

- 5 Properties: 123 units affordable rental housing

	2022 Board Amended	2022 Estimated Actuals	2022 Budget \$ Variance	2022 Budget % Variance	2023 CRHC Proposed	2023 Budget \$ Change	2024 Forecast Estimate	2025 Forecast Estimate	2026 Forecast Estimate	2027 Forecast Estimate
<b>Revenue</b>										
Tenant Rent Contribution	1,677,610	1,662,240	(15,370)	-0.9%	1,678,110	500	1,544,680	1,036,188	1,056,912	1,078,050
Misc Revenue - parking and laundry	5,680	6,140	460	8.1%	6,140	460	5,596	3,717	3,754	3,792
<b>Total Revenue</b>	<b>1,683,290</b>	<b>1,668,380</b>	<b>(14,910)</b>	<b>-0.9%</b>	<b>1,684,250</b>	<b>960</b>	<b>1,550,276</b>	<b>1,039,905</b>	<b>1,060,666</b>	<b>1,081,842</b>
<b>Expenditures</b>										
Audit/Legal	2,060	2,150	(90)	-4.4%	2,260	200	-	-	-	-
Caretaker	136,802	122,828 (1)	13,974	10.2%	153,534 (2)	16,732	142,712	96,671	99,571	102,558
Garbage	24,200	25,338	(1,138)	-4.7%	25,692	1,492	23,649	15,864	16,181	16,505
Landscape Maintenance	42,114	41,045	1,069	2.5%	42,734	620	39,336	26,387	26,915	27,453
Hydro	5,710	5,690	20	0.4%	5,820	110	5,357	3,594	3,666	3,739
Insurance Premium	88,567	87,857	710	0.8%	95,812	7,244	88,193	59,161	60,344	61,551
Insurance Deductible	6,830	-	6,830	100%	0	(6,830)	-	-	-	-
Maintenance	76,185	71,202	4,984	6.5%	80,647	4,462	74,234	49,797	50,793	51,809
Management Fee	190,294	190,294	-	0.0%	226,045 (3)	35,751	204,661	138,454	142,261	146,309
Mortgage Payments	612,996	602,963	10,033	1.6%	641,857	28,861	641,857	520,393	520,393	520,393
Property Taxes	390	375	15	3.8%	390	0	359	241	246	251
Transfer to Replacement Reserve	254,802	254,802	-	-	254,802	-	229,943	151,224	151,224	151,224
Water	117,600	121,110	(3,510)	-3.0%	123,860	6,260	114,012	76,480	78,010	79,570
<b>Total Expenditures</b>	<b>1,558,549</b>	<b>1,525,653</b>	<b>32,896</b>	<b>2.1%</b>	<b>1,653,452</b>	<b>94,903</b>	<b>1,564,313</b>	<b>1,138,266</b>	<b>1,149,603</b>	<b>1,161,362</b>
<b>Total No Agreement Surplus/(Deficit)</b>	<b>124,741</b>	<b>142,727</b>	<b>17,986</b>	<b>14.4%</b>	<b>30,798</b>	<b>(93,943)</b>	<b>(14,037)</b>	<b>(98,360)</b>	<b>(88,937)</b>	<b>(79,520)</b>
<b>Beginning Balance NOA Stabilization Reserve</b>		839,558			982,285		1,013,084	999,048	900,688	811,752
Operating Surplus/(Deficit)		142,727			30,798		(14,037)	(98,360)	(88,937)	(79,520)
<b>End Balance NOA Stabilization Reserve</b>		<b>982,285</b>			<b>1,013,084</b>		<b>999,048</b>	<b>900,688</b>	<b>811,752</b>	<b>732,235</b>
<b>Number of units in operation in portfolio</b>	<b>123</b>				<b>123</b>		<b>111</b>	<b>73</b>	<b>73</b>	<b>73</b>

**Notes (for variances +/- 10% and \$10,000)**

(1) 2022 Caretaker variance due to staff vacancies.

(2) 2023 Caretaker increase due to reallocation across portfolios.

(3) 2023 Management Fee set at \$146 per unit per month required to balance Admin budget.

**CAPITAL REGION HOUSING CORPORATION  
2023 RHFP AGREEMENT BUDGET SUMMARY**

- 5 Properties: 585 units mixed income housing

**APPENDIX D**

	2022 Board Amended	2022 Estimated Actuals	2022 Budget \$ Variance	2022 Budget % Variance	2023 CRHC Proposed	2023 Budget \$ Change	2024 Forecast Estimate	2025 Forecast Estimate	2026 Forecast Estimate	2027 Forecast Estimate
<b>Revenue</b>										
Tenant Rent Contribution	8,314,367	8,079,020	(235,347)	-3%	8,847,795	533,428	9,765,487	10,058,451	10,360,205	12,243,396
Misc Revenue - parking	118,270	162,030	(1) 43,760	37%	166,950	(7) 48,680	183,896	185,735	187,592	224,808
Transfer from capital projects	123,781	-	(123,781)	-	202,312	(8) 78,531				
<b>Total Revenue</b>	<b>8,556,418</b>	<b>8,241,050</b>	<b>(315,368)</b>	<b>-4%</b>	<b>9,217,057</b>	<b>660,639</b>	<b>9,949,383</b>	<b>10,244,186</b>	<b>10,547,797</b>	<b>12,468,204</b>
<b>Expenditures</b>										
Audit/Legal	8,940	9,736	796	9%	9,830	890	11,149	11,595	12,059	14,881
Caretaker	602,683	461,375	(2) (141,308)	-23%	695,515	(7) 92,832	781,283	804,722	828,863	1,012,967
Garbage	52,932	67,628	(3) 14,696	28%	95,752	(7) 42,820	106,515	108,646	110,819	134,118
Gas	106,827	108,680	1,853	2%	120,850	(7) 14,023	134,435	137,123	139,866	169,273
Landscape Maintenance	35,159	33,076	(2,083)	-6%	40,133	4,974	44,644	45,537	46,448	56,213
Hydro	115,050	85,120	(4) (29,930)	-26%	123,486	8,436	137,367	140,114	142,917	172,965
Insurance Premium	400,676	377,719	(22,957)	-6%	447,633	46,957	497,951	507,910	518,069	626,993
Insurance Deductible	29,650	-	(5) (29,650)	-100%	-	(9) (29,650)	-	-	-	-
Maintenance	239,039	249,995	10,956	5%	296,839	(7) 57,801	330,207	336,811	343,547	415,779
Management Fee	842,984	826,154	(16,830)	-2%	1,059,011	(7) 216,026	1,176,338	1,210,047	1,243,321	1,517,204
Mortgage Payments	5,052,889	4,864,010	(188,879)	-4%	5,480,066	427,177	6,178,130	6,178,130	6,178,130	7,478,125
Property Taxes	15,000	-	(15,000)		15,000	-	-	-	-	-
Transfer to Replacement Reserve	472,392	461,376	(11,016)	-2%	506,773	34,381	552,686	552,686	552,686	655,773
Water	233,233	261,163	(6) 27,929	12%	292,544	(7) 59,311	325,429	331,937	338,576	409,762
<b>Total Expenditures</b>	<b>8,207,453</b>	<b>7,806,031</b>	<b>(401,422)</b>	<b>-5%</b>	<b>9,183,431</b>	<b>975,977</b>	<b>10,276,134</b>	<b>10,365,258</b>	<b>10,455,299</b>	<b>12,664,054</b>
<b>Total RHFP Agreement Surplus/(Deficit)</b>	<b>348,964</b>	<b>435,019</b>	<b>86,055</b>	<b>-</b>	<b>33,626</b>	<b>(315,338)</b>	<b>(326,752)</b>	<b>(121,072)</b>	<b>92,498</b>	<b>(195,849)</b>
<b>Beginning Balance RHFP Stabilization Reserve</b>		38,150			473,169		506,795	180,044	58,972	151,470
Operating Surplus/(Deficit)		435,019			33,626		(326,752)	(121,072)	92,498	(195,849)
Transfer from Corporate Stabilization Reserve		-			-		-	-	-	-
Transfer from capital project surpluses (estimate)		-			-		-	-	-	-
<b>End Balance RHFP Stabilization Reserve</b>		<b>473,169</b>			<b>506,795</b>		<b>180,044</b>	<b>58,972</b>	<b>151,470</b>	<b>(44,379)</b>
<b>Number of units in operation in portfolio</b>	<b>534</b>				<b>585</b>		<b>638</b>	<b>638</b>	<b>638</b>	<b>757</b>

**Notes (for variances +/- 10% and \$10,000)**

(1) 2022 Parking revenue variance due to increased uptake of paid parking.

(2) 2022 Caretaker variance due to staff vacancies.

(3) 2022 Garbage variance due to unplanned fees associated with removal.

(4) 2022 Hydro variance due to full buildings after rent-up. (Tenants pay own hydro.)

(5) 2022 Insurance Deductible variance due to approval to utilize RR for large dec

(6) 2022 Water variance due to increased rates and consumption.

(7) 2023 Various lines increase due to addition of Prosser.

(8) 2023 Transfer from capital project budget at purchase of Prosser to account for rent-up period.

(9) 2023 Insurance deductible removed from operating budget due to approval to

**CAPITAL REGION HOUSING CORPORATION**  
**2023 IHI AGREEMENT BUDGET SUMMARY - Westview**

**APPENDIX E**

- 1 Property: 73 Mixed Income Housing

	2022 Board Approved	2022 Estimated Actuals	2022 Budget \$ Variance	2022 Budget % Variance	2023 CRHC Proposed	2023 Budget \$ Change	2024 Forecast Estimate	2025 Forecast Estimate	2026 Forecast Estimate	2027 Forecast Estimate
<b>Revenue</b>										
Tenant Rent Contribution	838,720	829,540	(9,180)	-1.1%	836,470	(2,250)	853,199	870,263	887,669	905,422
Misc Revenue - parking	18,790	21,100	2,310	12.3%	21,100	2,310	21,311	21,524	21,739	21,957
<b>Total Revenue</b>	<b>857,510</b>	<b>850,640</b>	<b>(6,870)</b>		<b>857,570</b>	<b>60</b>	<b>874,510</b>	<b>891,787</b>	<b>909,408</b>	<b>927,379</b>
<b>Expenditures</b>										
Audit/Legal	1,220	1,278	(58)	4.8%	1,340	120	1,394	1,449	1,507	1,568
Caretaker	100,942	90,221 (1)	10,722	-10.6%	107,986	7,044	111,226	114,563	117,999	121,539
Garbage	10,268	13,508	(3,241)	31.6%	15,195	4,927	15,499	15,809	16,125	16,448
Gas	10,020	12,810	(2,790)	27.8%	13,070	3,050	13,331	13,598	13,870	14,147
Landscape Maintenance	7,031	7,031	(0)	0.0%	7,547	516	7,698	7,852	8,009	8,169
Hydro	15,000	12,610	2,390	-15.9%	15,300	300	15,606	15,918	16,236	16,561
Insurance Premium	44,658	44,695	(37)	0.1%	49,144	4,486	50,127	51,130	52,152	53,195
Insurance Deductible	4,053	1,080	2,973		0	(4,053)	-	-	-	-
Maintenance	34,220	50,607 (2)	(16,387)	47.9%	41,571	7,351	42,403	43,251	44,116	0
Management Fee	112,939	112,939	(0)	0.0%	134,156 (3)	21,217	134,597	138,454	142,261	146,309
Mortgage Payments	280,401	280,180	221	-0.1%	280,401	0	280,401	280,401	280,401	280,401
Property Taxes	-	-	-		-	0	-	-	-	-
Transfer to Replacement Reserve	63,072	63,072	-	0.0%	63,072	0	63,072	63,072	63,072	63,072
Water	25,630	31,140	(5,510)	21.5%	31,770	6,140	32,405	33,054	33,715	34,389
<b>Total Expenditures</b>	<b>709,454</b>	<b>721,171</b>	<b>(11,717)</b>	<b>1.7%</b>	<b>760,553</b>	<b>51,099</b>	<b>767,759</b>	<b>778,549</b>	<b>789,464</b>	<b>755,799</b>
<b>Total Surplus/(Deficit)</b>	<b>148,056</b>	<b>129,469</b>	<b>(18,587)</b>	<b>-13%</b>	<b>97,017</b>	<b>(51,039)</b>	<b>106,752</b>	<b>113,238</b>	<b>119,944</b>	<b>171,580</b>
<b>Beginning Balance IHI Stabilization Reserve</b>		289,169			418,638		515,655	622,407	735,645	855,589
Operating Surplus/(Deficit)		129,469			97,017		106,752	113,238	119,944	171,580
<b>End Balance IHI Stabilization Reserve</b>		<b>418,638</b>			<b>515,655</b>		<b>622,407</b>	<b>735,645</b>	<b>855,589</b>	<b>1,027,169</b>
<b>Number of units in operation in portfolio</b>	<b>73</b>				<b>73</b>		<b>73</b>	<b>73</b>	<b>73</b>	<b>73</b>

**Notes (for variances +/- 10% and \$10,000)**

- (1) 2022 Caretaker under budget due to staff vacancies.
- (2) 2022 Maintenance variance due to unexpected maintenance costs.
- (3) 2023 Management Fee set at \$146 per unit per month required to balance Admin budget.

## CAPITAL REGION HOUSING CORPORATION

## APPENDIX F

## 2023 CHF AGREEMENT BUDGET SUMMARY

- 1 Property: 58 units - Mixed Income Housing

	2022 Board Approved	2022 Estimated Actuals	2022 Budget \$ Variance	2022 Budget % Variance	(1) 2023 CRHC Proposed	2023 Budget % Change	2024 Budget Forecast	2025 Budget Forecast	2026 Budget Forecast	2027 Budget Forecast
<b>Revenue</b>										
Tenant Rent Contribution	18,370	20,440	2,070	11.3%	677,510	0.0%	1,094,384	2,457,946	2,482,526	2,507,351
Misc Revenue - parking	450	1,710	1,260	280.0%	22,470	0.0%	22,695	22,922	23,151	23,382
BC Housing Subsidy	-	-	-		647,694	0.0%	1,197,520	1,072,802	1,090,789	1,110,090
Transfer from capital project budget	12,680	4,660	(8,020)	-63.2%	-	0.0%	-	-	-	-
<b>Total Revenue</b>	31,500	26,810	(4,690)	-14.9%	1,347,674	0.0%	2,314,599	3,553,670	3,596,465	3,640,823
<b>Expenditures</b>										
Audit/Legal	-	1,014	(1,014)		1,060	0.0%	1,939	5,139	5,345	5,559
Caretaker	9,250	10,670	(1,420)	15.3%	80,865	0.0%	146,478	384,575	396,113	407,996
Garbage	1,250	1,027	223	-17.8%	7,460	0.0%	13,381	34,790	35,486	36,196
Gas	1,667	-	1,667	-100.0%	11,700	0.0%	20,987	54,567	55,659	56,772
Landscape Maintenance	833	1,350	(517)	62.0%	8,989	0.0%	16,124	41,924	42,762	43,617
Hydro	3,333	3,000	333	-10.0%	20,028	0.0%	35,926	93,409	95,277	97,182
Insurance Premium	8,333	8,333	-	0.0%	57,618	0.0%	103,354	268,721	274,096	279,577
Insurance Deductible	-	-	-		-		-	-	-	-
Maintenance	4,333	2,308	2,025	-46.7%	28,851	0.0%	51,753	134,557	137,248	139,993
Management Fee	-	-	-		106,590	0.0%	188,067	493,122	506,682	521,101
Mortgage Payments	-	-	-		914,916	0.0%	1,541,990	1,541,990	1,541,990	1,541,990
Property Taxes	-	-	-		-	0.0%	-	-	-	-
Transfer to Replacement Reserve	-	-	-		56,706	0.0%	99,724	254,199	254,199	254,199
Water	2,500	-	2,500	-100.0%	52,891	0.0%	94,875	246,675	251,608	256,640
<b>Total Expenditures</b>	31,500	27,702	3,798	-12.1%	1,347,674	0.0%	2,314,599	3,553,670	3,596,465	3,640,823
<b>Total Surplus/(Deficit)</b>	-	(892.00)	(892)	0.0%	-	0.0%	-	-	-	-
<b>Number of units in operation in portfolio</b>	n/a				58		102	260	260	260
<b>Beginning Balance CHF Stabilization Reserve</b>		-			(892.00)		(892)	(892)	(892)	(892)
Operating Surplus/(Deficit)		(892.00)			-		-	-	-	-
<b>Ending Balance CHF Stabilization Reserve</b>		(892.00)			(892)		(892)	(892)	(892)	(892)

## Notes (for variances +/- 10% and \$10,000)

(1) 2022 budget was based on 2 months of operations and 2023 is for a full year.



**CAPITAL REGION HOUSING CORPORATION  
2023 DEVELOPMENT SERVICES BUDGET**

**APPENDIX G**

	<b>2022 Board Approved</b>	<b>2022 Estimated Actuals</b>	<b>2022 Budget \$ Variance</b>	<b>2022 Budget % Variance</b>	<b>2023 CRHC Proposed</b>	<b>2023 Budget \$ Change</b>	<b>2023 Budget % Change</b>
<b>REVENUE</b>							
Project Management Fees	511,000	411,000	(1) (100,000)	-19.6%	838,851	(4) 327,851	64.2%
Transfer from Corporation Stabilization Reserve	58,800	58,800	-	0.0%	-	(58,800)	-100.0%
<b>TOTAL REVENUE</b>	<b>569,800</b>	<b>469,800</b>	<b>(100,000)</b>	<b>-17.6%</b>	<b>838,851</b>	<b>269,051</b>	<b>47.2%</b>
<b>EXPENDITURES</b>							
Salaries & Benefits	484,673	421,644	(2) 63,029	13.0%	664,613	(5) 179,940	37.1%
CRD allocations					55,785	(6) 55,785	100.0%
Travel - local	1,500	500	1,000	66.7%	1,500	-	0.0%
Telephone	3,600	-	3,600	100.0%	3,600	-	0.0%
Miscellaneous	9,700	5,300	4,400	45.4%	12,500	2,800	28.9%
Capital Equipment	8,000	2,000	6,000	75.0%	13,500	5,500	68.8%
Consultants	58,800	12,000	(3) 46,800	79.6%	50,000	(8,800)	-15.0%
<b>TOTAL EXPENDITURES</b>	<b>566,273</b>	<b>441,444</b>	<b>124,829</b>	<b>22.0%</b>	<b>801,498</b>	<b>235,225</b>	<b>41.5%</b>
<b>TOTAL DEVELOPMENT SERVICES Surplus/(Deficit)</b>	<b>3,527</b>	<b>28,356</b>			<b>37,353</b>		
<b>Development Services Stabilization Reserve (7)</b>							
Opening balance		-			28,356		
Estimated surplus/(deficit)		28,356			37,353		
Ending balance		28,356			65,709		

**Notes:**

- (1) 2022 PM fee variance due to 2 projects deferred/delayed.
- (2) 2022 Salary variance due to vacancies.
- (3) 2022 Consultant expenses delayed to 2023
- (4) 2023 PM fees based on 3 projects underway and 1 that has received preliminary approval.
- (5) 2023 Salary budget includes 1 new FTE which was approved as a 2020 IBC contingent on project approval.
- (6) CRD allocations split from CRHC Administration budget starting in 2023 comprising of:
  - Standard overhead allocation
  - Building occupancy allocation
  - HR allocation

**REPORT TO HOSPITALS AND HOUSING COMMITTEE  
MEETING OF WEDNESDAY, MARCH 01, 2023**

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**SUBJECT**     **Lease for 7612 East Saanich Road – (Prosser Place Housing Development)**

**ISSUE SUMMARY**

The execution of the 60-year lease of the 7612 East Saanich Road housing development to the Capital Region Housing Corporation (CRHC) requires a resolution and approval from the Capital Regional District (CRD) Board of Directors.

**BACKGROUND**

Previously on April 14, 2021, the CRD Board approved the acquisition of 7612 East Saanich Road housing development (formerly referred to as 1909 Prosser Road) through the Regional Housing First Program (RHFP). A subsequent budget amendment to facilitate the acquisition was approved on October 12, 2022.

The housing development will be known as Prosser Place and is a 51-unit affordable housing development scheduled to be acquired by the CRD and leased to the CRHC in April 2023. The CRD Board approval of a 60-year lease to the CRHC is required to secure financing and complete the sale.

A near final draft of the lease is attached as Appendix A and the final draft will be substantially in the same form as provided.

**ALTERNATIVES**

*Alternative 1*

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

1. That the Chair of the Capital Regional District Board be authorized to execute the 60-year lease of the 7612 East Saanich Road Property (PID 031-883-486) to the Capital Region Housing Corporation.
2. That the Chief Administrative Officer be authorized to execute any agreements or documents and do all things necessary to finalize the acquisition and subsequent lease.

*Alternative 2*

That the Lease for 7612 East Saanich Road – (Prosser Place Housing Development) report be referred to staff for additional information.

**IMPLICATIONS**

The 60-year lease will enable the CRHC to access financing required to complete the acquisition. The approved project budget is \$18,928,091, which includes \$9,501,013 in equity. Equity consists of grant funding from the RHFP, Regional Housing Trust Fund (RHTF), interest accrued from the Rapid Housing Initiative (RHI) fund and forgivable mortgages through Investment in Housing Initiative (IHI) and Deepening Affordability (DA). The CRHC will take on mortgage debt of \$9,427,078. A summary of the equity and financing is provided in Table 1.

<b>Table 1 – 7612 East Saanich Road – (Prosser Place) Equity and Financing Summary</b>	
RHFP	\$ 4,000,000
RHTF	\$ 615,000
IHI	\$ 3,750,000
DA	\$ 436,013
RHI Interest	\$ 700,000
Mortgage	\$ 9,427,078
<b>Total Project Budget</b>	<b>\$ 18,928,091</b>

The lease payment will be a one-time upfront payment to the CRD and is necessary to complete the sale. The lease will require the CRHC to assume the full and sole responsibility for the condition, operation, repair, replacement, maintenance, and management of the land and building and all related expenses.

### **CONCLUSION**

The approval of the lease is required to enable the CRD's acquisition of the 7612 East Saanich Road housing development and subsequent 60-year lease to the CRHC to be completed.

### **RECOMMENDATION**

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

1. That the Chair of the Capital Regional District Board be authorized to execute the 60-year lease of the 7612 East Saanich Road Property (PID 031-883-486) to the Capital Region Housing Corporation.
2. That the Chief Administrative Officer be authorized to execute any agreements or documents and do all things necessary to finalize the acquisition and subsequent lease.

Submitted by:	Don Elliott, 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:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

### **ATTACHMENTS**

Appendix A: Draft 60-year Lease of 7612 East Saanich Road from the CRD to the CRHC

## TERMS OF INSTRUMENT - PART 2

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WHEREAS:

- A. The Lessee wishes to provide housing for persons with special housing requirements and/or limited income and agrees to lease the Lands for this purpose.
- B. The Commission, a representative of the Province, has agreed to provide financial assistance in connection with the foregoing.
- C. The Lessor is the owner of the Lands and has agreed to lease to the Lessee the Lands for the Term upon the terms, conditions and provisos herein so that the Lessee may renovate or construct the Building and otherwise use, occupy and enjoy the Lands.

WITNESS that in consideration of the rents reserved and the covenants and agreements set forth below, the parties agree as follows:

THE LESSOR HEREBY DEMISES AND LEASES UNTO THE LESSEE AND THE LESSEE DOES HEREBY TAKE AND RENT THE LANDS, TO HAVE AND TO HOLD THE LANDS UNTO THE LESSEE FOR AND DURING THE TERM AS HEREIN PROVIDED.

IN CONSIDERATION OF THE SUM OF TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION PAID AND PROVIDED BY THE COMMISSION TO BOTH THE LESSOR AND THE LESSEE, BOTH THE LESSOR AND THE LESSEE COVENANT AND AGREE WITH THE COMMISSION THAT THE COMMISSION WILL HOLD AND ENJOY THE RIGHTS, BENEFITS, PRIVILEGES, AUTHORITY AND DISCRETIONS GRANTED TO THE COMMISSION IN THIS LEASE.

ARTICLE 1  
DEFINITIONS AND INTERPRETATION

- 1.1 Capitalized terms used in this Lease have the meanings specified in this section 1.1, unless otherwise provided in this Lease:
- (a) “Additional Rent” means all sums, costs, expenses and other amounts, if any, payable by the Lessee to the Lessor pursuant to this Lease, including, without limitation, Realty Taxes, payments in lieu of Realty Taxes, Utilities and all sums payable by way of indemnity under this Lease, but excluding Basic Rent;
  - (b) “Alterations” means all alterations, changes, replacements, substitutes, additions and improvements to the Building;
  - (c) “Approved Lender” means any Mortgagee approved by Canada Mortgage and Housing Corporation for the purpose of making loans under the *National Housing Act* (Canada);
  - (d) “Architect” means the architect qualified as such pursuant to the laws of the province of British Columbia who is supervising the design, construction, repair, renovation and/or reconstruction of the Building;
  - (e) “Basic Rent” means twelve million two hundred and eighty nine thousand and seven hundred and twenty one dollars (\$12,289,721.00);
  - (f) “Building” means the building(s) and all other structures constructed and to be constructed on the Lands, together with all Alterations or repairs thereto and



all improvements from time to time constructed upon or affixed or appurtenant to the Lands;

- (g) “Commission” means British Columbia Housing Management Commission or its successors in function;
- (h) “Corporation” means Canada Mortgage and Housing Corporation or its successors in function, or the Commission;
- (i) “Eligible Occupant” means a person who, during the time that such person is an occupant in the Building, meets the criteria prescribed in the Operating Agreement;
- (j) “General Instrument” means the Form C - *Land Title (Transfer Forms) Regulation* pursuant to the *Land Title Act* (British Columbia), and all schedules and addenda to the Form C;
- (k) “Insured Loan” means a loan in respect of which an insurance policy has been issued under the *National Housing Act* (Canada) and is in force;
- (l) “Interest Adjustment Date” means the date from which the principal amount of the Insured Loan together with interest thereon becomes payable by regular instalments;
- (m) “Lands” means all of the Lessor’s interest in the land described in the General Instrument, including every incidental right, benefit or privilege attaching to that land or running with it;
- (n) “Lease” means this Lease;
- (o) “Lease Commencement Date” means the date this Lease is registered at the Victoria Land Title Office;
- (p) “Lessee” means Capital Region Housing Corporation;
- (q) “Lessor” means the Capital Regional District;
- (r) “Losses” means liabilities, actions, judgments, claims, losses, damages, fines, penalties, expenses, professional and other fees and disbursements, and costs;
- (s) “Mortgage” means a registered mortgage or registered mortgages granted by the Lessee in accordance with section 16.1 upon or in respect of the interest of the Lessee in the Lands and the Building or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (t) “Mortgagee” means a mortgagee or mortgagees under a Mortgage and includes any trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (u) “Operating Agreement” means the agreement entered into between the Commission and the Lessee dated for reference \_\_\_\_\_, 2023 that

relates to the management of the Building and the provision of housing to Eligible Occupants;

- (v) “Permitted Encumbrances” means the charges and encumbrances, if any, registered on title in priority to the Lease on the Lease Commencement Date and any other charges specifically approved in writing by both the Commission and the Lessor;
- (w) “Personnel” of a party means, as applicable, the elected officials and directors, officers, employees, servants and agents of that party;
- (x) “Province” means His Majesty the King in Right of the Province of British Columbia;
- (y) “PRHC” means the Provincial Rental Housing Corporation;
- (z) “Prime Rate” means the floating annual percentage rate of interest established from time to time by the main branch of the Bank of Montreal located in Vancouver, British Columbia, or its successor, as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its “prime rate”;
- (aa) “Realty Taxes” means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital District Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise and all other charges for services used in or supplied to the Lands and the Building (including penalties and interest) that now are or will or may be levied, rated, charged or assessed against the Lands, the Building, and all other structures, machinery, equipment, facilities and other property of any nature whatsoever located thereon or therein, charged by any municipal, parliamentary, legislative, regional, school or other authority;
- (bb) “Term” means SIXTY (60) years commencing on the Lease Commencement Date;
- (cc) “Trustee” means a trust company duly authorized to carry on business in the Province of British Columbia and appointed by the Corporation, or the Lessor if the Corporation has no interest in the Lands and the Building, for the purposes of Article 9 of this Lease; and
- (dd) “Utilities” means all charges, rates and levies on account of utilities, including for heat, electricity, gas, telephone, television, internet and other costs and expenses of a similar nature, and, if not included in Realty Taxes, for water and garbage collection.

1.2 Any reference in this Lease to legislation will be deemed to include all regulations thereto, all amendments and re-enactments thereof and all successor legislation.

ARTICLE 2  
DEMISE AND PAYMENT OF RENT

2.1 Demise and Basic Rent

- (a) The Lessor hereby demises and leases the Lands to the Lessee, and the Lessee hereby accepts that demise and lease, subject to the covenants, agreements, and conditions herein set out commencing on the Lease Commencement Date for the Term.
- (b) The Lessee covenants and agrees with the Lessor to pay to the Lessor as rent the Basic Rent for the Term on the Lease Commencement Date.

2.2 Net Lease

All Basic Rent and Additional Rent required to be paid by the Lessee hereunder will be paid at such location as the Lessor may stipulate from time to time without any deduction, abatement or set-off whatsoever, it being the intention of this Lease that:

- (a) all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements on the Lands or for any other matter or thing affecting the Lands, will, unless otherwise expressly stipulated herein to the contrary, be borne by the Lessee; and
- (b) the Basic Rent and Additional Rent payable under this Lease will be absolutely net to the Lessor and free of all abatements, set-off or deduction of any costs, payments and outgoing of every nature arising from or related to the Lands, the Building, or any other improvements on the Lands, and the Lessee will pay or cause to be paid all such costs, payments and outgoings.

ARTICLE 3  
PAYMENT OF TAXES

3.1 Payment of Realty Taxes if Lands Not Exempt

The Lessee will, during the Term, no later than the day immediately preceding the date or dates on which the Realty Taxes become due and payable, pay and discharge or cause to be paid and discharged the Realty Taxes and, if requested by the Lessor, will deliver to the Lessor for inspection receipts for payments of the Realty Taxes within fourteen (14) days of such payment. Not later than thirty (30) days following receipt of any tax assessment or notice the Lessor will deliver a copy of such assessment or notice to the Lessee.

3.2 Right to Appeal Assessment

The Lessee will have the right from time to time to appeal, in its own or the Lessor's name, any assessment of the Lands or Building or any Realty Taxes referred to in section 3.1, provided that such appeal will be at the sole expense of the Lessee.

### 3.3 Business Tax and License Fees

The Lessee covenants with the Lessor to pay or cause to be paid during the Term when due every tax and permit and license fee (including penalties and interest) in respect of any and every business carried on, in or upon the Lands or Building or in respect of the use or occupancy of the Lands or Building by the Lessee (and any and every sublessee, permittee and licensee), other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Lessee (or such sublessee, permittee and licensee), whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority.

### 3.4 Other Taxes

The Lessee will pay when due all goods and services taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments, including penalties and interest, that are from time to time payable by the Lessee as a result of its rights and obligations contained in this Lease, including but without derogating from the generality of the foregoing, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Lessee to the Lessor.

### 3.5 Pro-rating Obligations

In the first and last years of the Term, the Lessee's obligations under section 3.1 and will be pro-rated according to the portion of the year included in the Term, such pro-rating to be on a per diem basis.

### 3.6 Application of Section 3.1

Sections 3.1 will not apply during such time as the Building is used or is intended to be used to house Eligible Occupants and as a result is exempt from Realty Taxes, it being the intent of the parties that the Lands and Building will be exempt from Realty Taxes or payments in lieu of Realty Taxes if the Building is intended to be used to house Eligible Occupants.

## ARTICLE 4 ALTERATIONS TO THE BUILDING

### 4.1 Alterations to the Building

The Lessee will not make or permit to be made any Alterations affecting the structure of the Building or the exterior appearance of the Building without the written approval of the Lessor and the Commission, which approval the Lessor and the Commission will not unreasonably withhold. No Alterations involving an estimated cost of more than Fifty Thousand (\$50,000.00) (in Canadian dollars) will be undertaken until the Lessee has submitted or caused to be submitted to the Lessor and the Commission such drawings, specifications (including the materials to be used), elevations (where applicable), locations (where applicable), exterior decoration and design and such other documentation and information as the Lessor and the Commission may request in connection with the proposed Alterations, and until all of the same have been approved in writing by the Lessor and the Commission, which approval the Lessor and

the Commission will not unreasonably withhold. The Lessee covenants and agrees with the Lessor and the Commission that, subject to section 4.2, all Alterations undertaken by or for the Lessee once begun will be prosecuted with due diligence to completion.

#### 4.2 Unavoidable Delays

If, by reason of strike, lock-out or other labour dispute, material or labour shortage not within the control of the Lessee, fire, explosion, flood, wind, water, earthquake, act of God or other similar circumstances beyond the reasonable control of the Lessee and not avoidable by the exercise of reasonable effort or foresight by the Lessee, the Lessee is, in good faith and without default or neglect on its part, prevented or delayed in achieving the repair of the Building or any part or parts of the Building which under the terms of this Lease the Lessee is required to do by a specified date or within a specified time, the date or period of time within which such work was to have been completed will be extended by the Lessor by a reasonable period of time at least equal to that of such prevention or delay, and the Lessee will not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Lease within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the Lessor, the Lessee and the Commission.

### ARTICLE 5 BUILDERS LIENS

#### 5.1 Builders Liens

In connection with all labour performed on or materials supplied to the Lands the Lessee will comply with, and will cause any contractor hired by it to comply with, the provisions of the *Builders Lien Act* (British Columbia), and with all other statutes applicable in connection therewith and in force from time to time, including any provision or statute requiring or permitting the retention of portions of any sums payable by way of holdbacks.

#### 5.2 Discharge of Builders Liens

If and whenever any builders lien, or other lien or claim arises or is filed against the Lessor's interest in the Lands in connection with work, labour, services or materials supplied to or for the Lessee or for the cost of which the Lessee may in any way be liable, the Lessee will, within fifteen (15) days after receipt of notice of such lien or claim, procure the discharge thereof, and the discharge of any certificate of pending litigation registered in respect of any such lien or claim, by payment or giving security or in such other manner as may be required or permitted by law; provided, however, that in the event of a bona fide dispute by the Lessee of the validity or correctness of any claim for any such lien, the Lessee will not be bound by the foregoing, but will be entitled to defend against the same in any proceedings brought in respect thereof after first paying into a court of competent jurisdiction the amount claimed or sufficient security therefor, and such costs as the court may direct. The Lessor may pay and discharge any lien claim if, in its reasonable judgement, the Lands or the Lessor's interest in the Lands becomes liable to forfeiture or sale, or is otherwise in jeopardy. The Lessee will reimburse to the Lessor any amount paid by the Lessor in discharging a lien claim arising or filed against the Lands and the Lessor's reasonable expenses in connection therewith.

### 5.3 Notice by Lessor

Pursuant to section 3(2) of the *Builders Lien Act* (British Columbia), the Lessor may file in the Land Title Office notice of its fee simple interest in the Lands and for all purposes of this Lease any construction, Alterations or repairs of the Building by the Lessee will be deemed not to be done at the request of the Lessor.

## ARTICLE 6 RESTRICTIONS ON OPERATIONS AND USE

### 6.1 Use

Unless otherwise agreed to in writing by the Lessor and the Commission, the Lessee covenants and agrees with the Lessor and the Commission that neither the Lands nor Building nor any part of the Lands or Building will be used for any purpose except that of housing Eligible Occupants, subject always to the laws, bylaws, regulations and permits governing the use of the Lands and Building from time to time. Neither the Lands nor Building nor any part of the Lands or Building will be used for business, trade or manufacture without the written approval of the Lessor and the Commission, which approval the Lessor and the Commission may arbitrarily withhold. If, however, the Lessor, the Lessee, and the Commission determine that it is not practical or commercially reasonable to continue to carry on the use described in section 6.1, the Lessee may commence to use and occupy the Lands and Building for another use, including a commercial use that is approved by the Lessor and the Commission, and if it elects to do so:

- (a) the Basic Rent will be adjusted, from time to time, to reflect the fair rental value of the Lands, without reference to the Building, given the use to which the Lands and Building are put, from time to time. If the parties cannot agree on the Basic Rent or the dates when the Basic Rent is to be adjusted, the Basic Rent and/or adjustment dates will be settled by arbitration pursuant to Article 19; and
- (b) the Lands and Building will not be exempt from Realty Taxes.

### 6.2 No Nuisance

The Lessee will not carry on, or suffer or permit to be carried on, upon the Lands anything which would constitute a nuisance to the Lessor or to any neighbouring properties or their owners or occupants provided, however, the occupation of the Lands and Building by Eligible Occupants in accordance with the terms of this Lease shall not constitute a nuisance.

### 6.3 No Subdivision

The Lessee covenants that it will not subdivide the Lands or the Building pursuant to the *Strata Property Act* (British Columbia) without the prior written consent of the Lessor and the Commission.

### 6.4 Restriction on Contracting

The Lessee covenants that:

- (a) it will not pay directly or indirectly to any of its directors or their relatives by blood or marriage (including common-law marriage) any money obtained from the operation of the Lands or the Building, or from the operation of other premises leased from the Lessor, or otherwise received from the Lessor, the Commission or the Province, without the express written consent of the Lessor, the Commission and/or the Province, as the case may be;
- (b) it will not, by contract or otherwise, pay to any of its former directors or their relatives by blood or marriage (including common-law marriage), pursuant to any contract or arrangement made when the former director was a director of the Lessee, money obtained from the operation of the Lands or the Building, or from the operation of other premises leased from the Lessor, or otherwise received from the Lessor, the Commission or the Province, without the express written consent of the Lessor, the Commission and/or the Province, as the case may be;
- (c) subject to sub-paragraphs (a) and (b), the Lessee may enter into bona fide arm's length contracts with occupants of the Building for the provision of services in furtherance of the good management of the Lands and the Building; and
- (d) notwithstanding the foregoing, the Lessee may reimburse its directors or occupants of the Building for out-of-pocket expenses incurred for the proper management of the Lands or the Building but only upon the proof of such expenditure by the production of bona fide receipts.

The Lessor may not terminate this Lease on account of a breach of this section 6.4 but such directors will forthwith and forever be disqualified from such directorship.

## 6.5 Permitted Encumbrances

During the Term, the Lessee, at its expense, will perform and observe all of the obligations of the Lessor and may enjoy all of the rights of the Lessor (but not those rights of the Lessor in its regulatory capacity) set out in the Permitted Encumbrances. None of the Permitted Encumbrances will merge or be deemed to have merged with the Lessor's title to the Lands, and accordingly all Permitted Encumbrances will be deemed to be in full force and effect. The Lessor will execute such documents as might reasonably be requested by the Lessee to enable it to comply with its obligations and to enjoy its rights in respect of the Permitted Encumbrances. The Lessee further covenants and agrees with the Lessor that if the Lessor, in its capacity as a regional government body, exercises any of its rights in its regulatory capacity under the Permitted Encumbrances, such exercise will not be a breach of the Lessor's covenant for quiet enjoyment.

- 6.6 The Commission will not amend or replace the Operating Agreement without the prior written approval of the Lessor. The Lessee shall provide the Lessor with as much advanced written notice as is practicable in the circumstances in the event that the Operating Agreement is terminated.

ARTICLE 7  
REPAIRS AND MAINTENANCE

7.1 Lessor Not Obligated to Repair

The Lessor will not be obliged to furnish any services or facilities or to make repairs or Alterations in or to the Lands or the Building, and the Lessee hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Lands and the Building and all expenses related thereto.

7.2 Repairs by the Lessee

Reasonable wear and tear excepted, so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Building:

- (a) the Lessee at the Lessee's cost and expense will put and keep in good order and condition, or cause to be put and kept in good order and condition, the Lands and Building (and any equipment located thereon and therein), both inside and outside, including but not limited to fixtures, walls, foundations, roofs, stairways, elevators (if any) and similar devices, heating and air conditioning equipment, sidewalks, underground parking facilities, yards and other like areas, water and sewer mains and connections, water, steam, gas and electric pipes and conduits, and all other fixtures and appurtenances to the Lands and the Building and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs and, subject to section 4.1, Alterations, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Building and any and all fixtures and equipment therein fully usable for the purposes for which the Building was constructed. Such repairs and Alterations will be in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Building, and will in each case be performed only in accordance with all applicable terms and conditions of the Permitted Encumbrances;
- (b) the Lessee will not commit or suffer waste to the Lands or the Building or any part thereof; and
- (c) if the Lessee does not fulfil its obligations set out in this Article 7, the Lessor or the Commission, through their agents, servants, contractors and subcontractors, may, but will not be obliged to, enter (without hindrance by the Lessee) upon the Lands and the Building as required for the purpose of making any repairs necessary to put the Lands and the Building in good order and condition, provided that the Lessor or the Commission will make such repairs only after giving the Lessee not less than fourteen (14) days written notice of its intention to do so, except in the case of an emergency when no notice will be required. Any costs and expenses (including overhead costs) incurred by the Lessor or the Commission in making such repairs to the Lands and Building will be reimbursed to the Lessor or the Commission, as the case may be, by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until the date paid.



### 7.3 Removal of Ice and Snow from Sidewalks

The Lessee covenants and agrees with the Lessor that if the Lessee at any time fails to keep the public sidewalk adjacent to the Lands reasonably clean from rubbish, ice and snow during the times and to the extent lawfully required of an owner or occupier, the Lessor, through its agents, servants, contractors and subcontractors, may remove such rubbish, ice and snow and the Lessor will not be required to give the Lessee any notice of its intention to do so. Any costs and expenses incurred by the Lessor in removing such ice and snow will be reimbursed to the Lessor by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until paid.

## ARTICLE 8 ADDITIONAL RENT

### 8.1 All Defaults in Payment as Additional Rent

If the Lessee defaults in the payment of any sums required to be paid by it pursuant to the terms of this Lease, or fails to fulfil any of its obligations under this Lease, the Lessor may (but will be under no obligation to do so) pay such sums or fulfil such obligations on behalf of the Lessee, and any losses, costs, charges and expenses suffered by the Lessor as a result, including sums payable by way of indemnity, whether or not expressed in this Lease to be rent, may at the option of the Lessor be treated as and deemed to be Additional Rent, in which event the Lessor will have all remedies for the collection of such sums, costs, expenses or other amounts when in arrears as are available to the Lessor for the collection of rent in arrears.

## ARTICLE 9 INSURANCE

### 9.1 Commercial General Liability Insurance

The Lessee will effect and keep in force commercial general liability insurance with limits of not less than Ten Million Dollars (\$10,000,000), or such other amount as the Lessor and the Commission may require from time to time, per occurrence, against public liability claims for bodily injury, death and property damage (including loss of use) arising from the Lessee's use and occupancy of the Building and from any occurrence or accident on the Lands or Building. Such insurance will be written on an occurrence basis and will provide for blanket contractual liability, including liability assumed by the Lessee under this Lease. The policy will also contain a cross liability or severability of interests clause and will name the Lessor, the Commission and their respective Personnel as additional insureds with respect to third party claims arising out of the Lessee's operations pursuant to this Lease.

### 9.2 All Risk Property and Pressure Vessel Insurance

The Lessee will effect and maintain property insurance in the joint names of the Lessor, the Commission and the Mortgagee (if any) as their interests may appear, to the full replacement value of the Building and fixtures on the Lands, protecting them against "All Perils" of loss or damage including flood, sewer backup and earthquake, and will include boilers and pressure vessels, protecting against usual perils, including damage caused by rupture of steam pipes. The policies described in this section 9.2

will contain a clause directing insurers to make losses payable to the Lessee, the Lessor, the Commission and the Mortgagee as their interests may appear.

### 9.3 Insurance - Additional Provisions

The following provisions will apply to all policies of insurance which are referred to in this Article 9:

- (a) the policies will be primary and non-contributing with respect to any policy or self-insured fund otherwise held or established on behalf of the Lessor or the Commission;
- (b) the stated amount of value insured under property policies will be of sufficient amount that none of the Lessee, the Commission nor the Lessor will become co-insurers with respect to any loss claimed against the insurance;
- (c) each policy will be written on a form acceptable to the Lessor and the Commission and with insurers licensed to do business in the Province of British Columbia and acceptable to the Lessor and the Commission;
- (d) any deductible amounts applying to a claim against a policy will be of an amount approved by the Lessor and the Commission;
- (e) each policy will contain a clause requiring that the insurers provide to the Lessor and the Commission a minimum of sixty (60) days prior written notice of any cancellation (except for cancellation resulting from non-payment of premiums, in which case applicable statutory provisions will apply); and
- (f) all premiums and deductibles required under said policies will be paid by the Lessee to the insurers and proof of such payment will be submitted to the Lessor and the Commission.

In addition to the notification obligations of the insurers required by section 9.3(e), the Lessee will provide to the Lessor and the Commission a minimum of sixty (60) days prior written notice of any cancellation, lapse or material change resulting in reduction of coverage, either in whole or in part, in respect of any of the policies of insurance which are referred to in this Article 9.

### 9.4 Evidence of Insurance

Prior to the Lease Commencement Date the Lessee will provide the Lessor and the Commission with evidence of all insurance required to be taken out pursuant to this Lease, in the form of one or more detailed certificates of insurance, in such form(s) and contents as the Lessor and the Commission requests. Each certificate of insurance must identify the Lease number, policy holder and subject matter, and must not contain any disclaimer. Thereafter, and throughout the Term, forthwith upon request by the Lessor or the Commission, similar evidence of renewals, extensions or replacement of such insurance will be provided in the form of such certificate(s) of insurance. In addition, if requested by the Lessor or the Commission at any time, the Lessee will forthwith deliver to the Lessor or the Commission, as applicable, a certified copy of each insurance policy requested.

#### 9.5 Payment of Loss Under Insurance Policies

The insurance monies payable under the policies of insurance referred to in this Article 9, will, notwithstanding the terms of the policy or policies, be paid to the Trustee on behalf of the Lessee, the Lessor, the Commission and the Mortgagee. The Lessee, the Lessor and the Commission agree that the Trustee will, subject to section 10.5, pay for all restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies were paid to the Trustee out of such insurance monies in accordance with certificates of the Architect or such other person as the Lessee, the Lessor and the Commission may agree upon and who is in charge of such restoration, reconstruction or replacement, after receiving such other certificates, evidence or opinions as the Trustee will require for the purpose of being satisfied that such restoration, reconstruction or replacement is being properly carried out. If the Lessee fails to restore, reconstruct or replace the loss or damage in respect of which the insurance monies were paid to the Trustee within a reasonable time, the Lessor and the Commission will be entitled to effect such restoration, reconstruction or replacement and the Trustee will pay such insurance monies to the Lessor or the Commission in the same manner that the Trustee would have done had the Lessee effected such restoration, reconstruction or replacement.

#### 9.6 Workers Compensation Coverage

At all times during the Term, the Lessee will, and will cause its Personnel and all others engaged in or upon any work on the Building or the Lands to, comply with the *Workers Compensation Act* (British Columbia) (the “WCA”) and the requirements and regulations under the WCA in respect of the Building and the Lands. Without limiting the generality of the foregoing, the Lessee will:

- (a) require as a condition of any agreement made with respect to construction, repair, renovation or demolition of the Building, whether with contractors, materialmen or otherwise, that there is full workers compensation insurance coverage in place in respect of all workers, employees, servants and others engaged in or upon any work, and that all workers, contractors or other persons require the same of their workers and subcontractors. The Lessee will immediately notify the Lessor and the Commission of any dispute involving third parties that arises in connection with obtaining and maintaining the workers compensation insurance coverage required hereby if such dispute results or may result in the required insurance coverage not being in place, and the Lessee will take all reasonable steps to ensure resolution of such dispute forthwith. The Lessee will further ensure that no amount payable pursuant to the WCA is left unpaid so as to create a lien on the Lands or the Building. If the workers compensation insurance coverage required by this section 9.6 is not in place, the Lessor and the Commission will be entitled to have recourse to all remedies specified in this Lease or at law or equity; and
- (b) be deemed to be, and is hereby designated and appointed by the Lessor as, the “Prime Contractor” as that term is defined in section 118 of the WCA for the purposes of the WCA and related regulations, including the Occupational Health and Safety Regulation (the “OHS Regulation”), and the requirements and regulations of WorkSafeBC, and will in that capacity strictly comply with all requirements applicable to that designation, as they may be amended from time to time. Notwithstanding the foregoing, with the prior written consent of

the Lessor, a contractor hired by the Lessee to perform work on the Lands on its behalf may be designated as the Prime Contractor instead of the Lessee.

9.7 Release of Lessor and Commission from Liability for Insured Loss or Damage

The Lessee hereby releases the Lessor and the Commission and their respective Personnel, whether or not the Lessor, the Commission and their respective Personnel have been negligent, from any and all liability for loss or damage caused by any of the perils against which the Lessee will have insured or is obligated to insure pursuant to the terms of this Lease or any applicable law, or self insures if section 9.8 applies, the intent being that the Lessee's policies of insurance will contain a waiver of subrogation in favour of the Lessor and the Commission or, if section 9.8 applies, the Lessee will release the Lessor and the Commission from any and all liability for loss or damage caused by the perils referred to in sections 9.1 and 9.2 to the same extent as if the Lessee had taken out insurance.

9.8 Insurance Exemption for Corporation and PRHC

Notwithstanding anything contained in this Lease, if for any reason and at any time the Corporation or PRHC is the Lessee, the Corporation or PRHC, as the case may be, will not be under any obligation to take out and keep in force any of the insurance required to be taken out and kept in force under sections 9.1 and 9.2 of this Article, provided that the Corporation or PRHC, as the case may be, has in place a program of self insurance that provides the same or better coverage than the insurance coverage described in this Article.

ARTICLE 10  
DAMAGE OR DESTRUCTION

10.1 Rent Not to Abate

Subject to the provisions of sections 10.5 and 10.6, the partial destruction or damage or complete destruction by fire or other casualty of the Building will not result in the termination of this Lease or entitle the Lessee to surrender possession of the Lands or the Building or to demand any abatement or reduction of the Basic Rent or Additional Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

10.2 Lessee's Obligation When Building Partially Damaged or Destroyed

Subject to the provisions of sections 10.5 and 10.6, the Lessee covenants and agrees with the Lessor and the Commission that in the event of partial damage to or partial destruction of the Building, the Lessee will either:

- (a) replace any part of the Building damaged or destroyed with a new structure in accordance with any agreement which may be made by the Lessee with the Lessor and the Commission; or
- (b) in the absence of any such agreement, repair or replace such damage or destruction to a standard comparable to the standard of the structure being repaired or replaced.

### 10.3 Lessee's Obligations When Building Completely or Substantially Destroyed

Subject to the provisions of sections 10.5 and 10.6, the Lessee covenants and agrees with the Lessor and the Commission that in the event of complete or substantially complete destruction of the Building, the Lessee will either:

- (a) reconstruct or replace the Building with a new structure or structures in accordance with any agreement which may be made by the Lessee with the Lessor and the Commission; or
- (b) in the absence of any such agreement, replace the Building with a new structure or structures comparable to the structure or structures being replaced.

### 10.4 Replacement, Repair or Reconstruction

Any replacement, repair or reconstruction of the Building or any part thereof pursuant to the provisions of section 10.2 or 10.3 will be made or done in compliance with section 4.1 and Article 7.

### 10.5 Special Provisions Where Approved Lender or Corporation is Mortgagee

- (a) If the Building is damaged or destroyed to the extent of at least twenty-five percent (25%) of the full replacement cost of the Building, and at the time of such damage or destruction the Mortgagee is an Approved Lender, and such Mortgagee notifies the parties that the insurance monies made available by reason of the casualty causing such damage or destruction will not be applied in repairing, reconstructing or replacing the Building, and the right to so elect is reserved to the Mortgagee under the terms of the Mortgage, then the Lessee may decline to repair, reconstruct or replace the Building and instead elect to terminate this Lease, provided that the Lessee makes such election within sixty (60) days after the date on which the Building was so damaged or destroyed and notifies the Lessor and the Commission of its election forthwith after making it. If the Lessee does not elect to so terminate this Lease, then the Lessee will repair, reconstruct or replace the Building or any part thereof damaged or destroyed in accordance with section 10.2 or section 10.3, as the case may be, and section 10.4;
- (b) If the Mortgagee is the Corporation and it attorns to the Lessor as tenant and undertakes to be bound by and perform the covenants and agreements of the Lease, and subsequently during the Term the Building is damaged or destroyed to the extent of at least twenty-five percent (25%) of the full replacement cost of the Building, the Corporation as tenant may at its option either repair, reconstruct or replace the Building so damaged or destroyed or decline to repair, reconstruct or replace the Building and instead elect to terminate this Lease, provided that the Corporation as tenant makes such election within sixty (60) days after the date on which the Building was so damaged or destroyed and notifies the Lessor and the Commission of its election forthwith after making it. If the Corporation as tenant does not so elect to terminate this Lease, then the Corporation as tenant will repair, reconstruct or replace the Building or any part thereof damaged or destroyed in accordance with section 10.2 or section 10.3, as the case may be, and section 10.4;

- (c) As soon as reasonably possible, but not later than one hundred and eighty (180) days following the date of termination of this Lease by the Lessee pursuant to section 10.5(a) or section 10.5(b), the Lessee will demolish and completely remove the Building and all foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction will, notwithstanding the provisions of Article 9, be distributed as follows:
  - (i) firstly, to reimburse the Lessee for all costs and expenses necessarily incurred by the Lessee in the demolition and removal of the Building and all foundations and debris from the Lands and the restoration of the Lands as aforesaid;
  - (ii) secondly, to pay and satisfy the Mortgage, if any;
  - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows:
    - A. to the Lessor, the amount calculated as follows:  

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days in expired portion of the Term} \div \text{total days in Term}); \text{ and}$$
    - B. to the Lessee, the amount calculated as follows:  

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term}),$$

provided however that any amount so payable to the Lessee will be paid directly to the Commission;
- (d) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 10.5, this section will nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as any obligations of the parties under this section 10.5 or any part thereof remains unperformed; and
- (e) The provisions of this section 10.5 are subject always to the provisions of section 10.6.

#### 10.6 Destruction or Damage During Last Five Years of Term

- (a) In the event of the complete or substantial destruction of the Building during the last five (5) years of the Term, the Lessee may, at its option, either reconstruct or replace the Building so destroyed or damaged in accordance with section 10.3 or decline to do so, and instead elect to terminate this Lease, provided that the Lessee makes such election within sixty (60) days after the date on which the Building was so destroyed and notifies the Lessor of its election forthwith after making it;

- (b) As soon as reasonably possible, but not later than one hundred and eighty (180) days following the date of termination of this Lease by the Lessee pursuant to section 10.6(a), the Lessee will demolish and completely remove the Building and all foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction will, notwithstanding the provisions of Article 9, be distributed as follows:
- (i) firstly, to reimburse the Lessee for all costs and expenses necessarily incurred by the Lessee in the demolition and removal of the Building and all foundations and debris from the Lands and the restoration of the Lands as aforesaid;
  - (ii) secondly, to pay and satisfy the Mortgage, if any;
  - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows:
    - A. to the Lessor the amount calculated as follows:  
$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days in expired portion of the Term} \div \text{total days in Term}); \text{ and}$$
    - B. to the Lessee the amount calculated as follows:  
$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term}),$$
- provided however that any amount payable to the Lessee will be paid directly to the Commission; and
- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 10.6, this section 10.6 will nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as any obligations of the parties under this section 10.6 or any part thereof remains unperformed.

#### ARTICLE 11 INSPECTION AND EXHIBITION BY LESSOR

##### 11.1 Inspection by Lessor and Commission

The Lessor and the Lessee agree that it will be lawful for representatives of the Lessor and the Commission to enter the Lands and the Building at all reasonable times during the Term, with prior written notice to the Lessee, to examine the condition thereof. If the Lessor or the Commission determines that any of the repairs described in section 7.2 are required, notice of such required repairs will be given by the Commission or the Lessor to the Lessee, and the Lessee will within thirty (30) days after every such notice, or such longer period as provided in section 18.1(d), repair and make good accordingly.

## 11.2 Exhibition by Lessor

During the final year of the Term, the Lessor will be entitled to display upon the Lands the usual signs advertising the Lands and Building as being available for purchase or lease, provided such signs are displayed in such a manner as not to unreasonably interfere with the Lessee's use and enjoyment of the Lands and the Building.

## ARTICLE 12 OBSERVANCE OF GOVERNMENTAL REGULATIONS

### 12.1 Compliance

The Lessee covenants to competently and faithfully observe and comply with all laws, bylaws and lawful orders which apply to the Lands and the Building or the Lessee's occupation of or activities on the Lands or in the Building, and to not use or occupy or permit to be used or occupied the Lands or the Building or any part thereof for any illegal or unlawful purpose or in any manner which would result in the cancellation or threatened cancellation of any insurance, or in the refusal of any insurer to issue any insurance as requested. If any law, bylaw or lawful order is directed at or places a duty or obligation upon the Lessor, with reference to the Lands and Buildings, then the same will be performed and observed by the Lessee, at its cost, in the place and stead of the Lessor.

## ARTICLE 13 RIGHTS OF LESSOR AND LESSEE

### 13.1 As Landlord and Tenant

All rights and benefits and all obligations of the Lessor and the Lessee under this Lease will be rights, benefits and obligations of the Lessor and the Lessee respectively in their capacities as landlord and tenant respectively under this Lease.

## ARTICLE 14 EXCLUSION OF LIABILITY AND INDEMNITY

### 14.1 Limitation of Liability and Release

Neither the Lessor nor the Commission nor their respective Personnel or contractors will be liable for, and the Lessee hereby releases the Lessor, the Commission and their respective Personnel and contractors from all Losses, including without limitation, Losses as a result of:

- (a) any bodily injury or death, however caused, suffered or sustained in or about the Lands or the Building; or
- (b) any property damage or other loss or damage of any nature whatsoever, however caused, to the Lands or the Building, or to any property belonging to the Lessee or to any other person in or about the Lands or the Building,

whether such Losses arise from an exercise of the Lessor's or the Commission's respective rights or privileges herein or otherwise, unless resulting from the respective negligence or unlawful acts of the Lessor, the Commission or their respective



Personnel or contractors, as the case may be. For certainty, if the Commission becomes the Lessee, then the limitation of liability and release in favour of the Commission as contained in this section will not apply.

#### 14.2 Exclusion of Liability

Notwithstanding section 14.1, neither the Lessor nor the Commission nor their respective Personnel or contractors will be liable for:

- (a) consequential, business, economic or indirect loss or damage of any nature whatsoever, however caused, which may be suffered or sustained by the Lessee or any other person who may be in or about the Lands or the Building; or
- (b) any loss against which the Lessee is obligated to insure or has insured.

#### 14.3 Indemnification

The Lessee hereby agrees to indemnify and save harmless the Lessor, the Commission and their respective Personnel and contractors from and against all Losses which the Lessor, the Commission or their respective Personnel or contractors may suffer or incur arising out of, or in any way connected with this Lease; provided, however, that such indemnity will not apply to the extent, if any, to which such Losses result from the respective negligence or unlawful acts of the Lessor, the Commission or their respective Personnel or contractors, as the case may be. Without derogating from the generality of the foregoing, the Lessee agrees to indemnify and save harmless the Lessor, the Commission and their respective Personnel and contractors in respect of all Losses:

- (a) as a result of bodily injury or death, property damage or other damage arising from the conduct of any work by or any act or omission of or relating to or arising from the occupation or possession of the Lands and the Building by the Lessee or any assignee, subtenant, Personnel, contractor, invitee or licensee of the Lessee; or
- (b) suffered or incurred by the Lessor, the Commission or their respective Personnel and contractors that arise, whether directly or indirectly, from any breach by the Lessee, its Personnel, contractors or any other person for whom the Lessee is responsible in law, of any of its covenants and obligations under this Lease.

#### 14.4 Indemnification Survives Termination of Lease

The obligations of the Lessee to indemnify the Lessor, the Commission and their respective Personnel and contractors will apply and continue notwithstanding the termination or expiration of this Lease.

#### 14.5 Indemnity Exemption for PRHC

None of the provisions of the Lease, including section 24.2(g) which require the Lessee to indemnify the Lessor or the Commission will apply if PRHC is the Lessee under this Lease. However, upon the request of the Lessor, PRHC agrees to apply to the Minister

of Finance to allow PRHC to grant such indemnities, and PRHC will use reasonable efforts to obtain the necessary consent so as to grant such indemnities to the Lessor.

## ARTICLE 15 SUBLETTING AND ASSIGNING

### 15.1 Subletting and Assigning by Lessee

The Lessee will not sublease, assign, transfer, sell or encumber its interest in the Lease or enter into any agreement for the purpose of sub-leasing, assignment, transferring, selling or encumbering its interest in the Lease, the Building or the Lands, except as expressly permitted in this Lease, or with the prior written consent of the Lessor and the Commission, which consent the Lessor and the Commission may arbitrarily withhold; provided, however, that if the Lessee is PRHC, the Corporation or a Mortgagee which is an Approved Lender, the Lessor and the Commission will not unreasonably withhold their consent. The Lessee may sublet or grant licences or other rights to occupy or use any part of the Building to:

- (a) Eligible Occupants; or
- (b) staff and other personnel authorized by the Lessor and the Commission who are required to operate and maintain the Building and the Lands for the purposes of this Lease.

### 15.2 Copies of Subleases

If requested by the Lessor or the Commission, a copy of any or all such subleases will be forwarded to the Lessor or the Commission, as the case may be, within thirty (30) days after entering into such subleases, together with particulars of registration (if any) in the Land Title Office.

### 15.3 Where Mortgagee is Approved Lender, Commission or Corporation

If a Mortgagee which is an Approved Lender, the Commission or the Corporation takes an assignment of the rents payable to the Lessee by holders of occupation rights granted by the Lessee pursuant to section 15.1, the Lessee is permitted to enter into such assignment of rents, without the consent of the Lessor or the Commission, as collateral or additional security for an Insured Loan, if such Mortgagee has registered that assignment in the Land Title Office as a charge against the interest of the Lessee in the Lands and the Building or any part thereof. The Lessor agrees that such an assignment of rents will have priority over any similar assignment of those particular rents granted to the Lessor by this Lease.

## ARTICLE 16 MORTGAGE

### 16.1 Mortgaging by Lessee

The Lessee may mortgage its leasehold interest in the Lands and the Building only with the prior written consent of the Lessor and the Commission, which consent may not be unreasonably withheld. Notwithstanding any such Mortgage, the Lessee will be and

remain liable for the payment of all Basic Rent and Additional Rent, and the performance of all of its obligations set out in this Lease.

## 16.2 Tripartite Agreement

At the request of the Mortgagee, the Lessor will execute and deliver to the Mortgagee an agreement among the Lessee, the Lessor and the Mortgagee, or between the Lessor and the Mortgagee, which will be binding and enforceable against the Lessee (if a party thereto), the Lessor and the Mortgagee and their successors and assigns, whereby the Lessor will agree with the Mortgagee to afford to the Mortgagee the rights and remedies afforded to Mortgagees under this Lease.

## ARTICLE 17 BANKRUPTCY OF LESSEE

### 17.1 Bankruptcy of Lessee

Subject to the provisions of section 18.2(c), if the Term is at any time seized or taken in execution by any creditor of the Lessee, or if the Lessee makes a general assignment for the benefit of creditors, or institutes proceedings to subject itself to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it, or files an application or petition or answer or consent seeking reorganization or readjustment of the Lessee under any law of Canada or any province thereof relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver, or if the Lessee or its directors pass any resolution authorizing the dissolution or winding-up of the Lessee, or if a receiver, interim receiver, trustee or liquidator of all or any part of the property of the Lessee is appointed or applied for by the Lessee, or if a judgment, decree or order is entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of any applicable legislation determining the proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding-up or any similar relief under any law of Canada or any province thereof relating to bankruptcy or insolvency has been properly instituted, then, subject to Section 23.1, this Lease will, at the option of the Lessor, immediately become terminated.

## ARTICLE 18 DEFAULT BY LESSEE

### 18.1 Re-entry on Certain Defaults by Lessee

Subject to the provisions of sections 18.2 and 23.1, if and whenever:

- (a) Basic Rent or any part thereof is not paid on the day appointed for payment thereof; or
- (b) the Lessee defaults in payment of Additional Rent or any other sums required to be paid to the Lessor or the Commission by any provision of this Lease, and such default continues for forty-five (45) days following any specific due date on which the Lessee is to make such payment or, in the absence of such specific due date, for forty-five (45) days following notice by the Lessor or the Commission requiring the Lessee to pay the same; or

- (c) the Building is abandoned or remains vacant for more than thirty (30) days; or
- (d) the Lessee defaults in performing or observing any of its other covenants or obligations under this Lease, or any contingency occurs which by the terms of this Lease constitutes a breach hereof or confers upon the Lessor the right to re-enter or forfeit or terminate this Lease, and the Lessor has given to the Lessee notice of such default or the happening of such contingency, and if at the expiration of forty-five (45) days after the giving of such notice the default or contingency continues to exist, or in the case of a default or contingency which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the Lessee does not commence the rectification of such default or contingency within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceed with such rectification; or
- (e) this Lease expires or is forfeited or terminated pursuant to any other provision contained herein, including, without restricting the generality of the foregoing, the termination of this Lease pursuant to the provisions of section 10.5,

then and in every such case, it will be lawful for the Lessor at any time thereafter without notice or demand, with or without process of law and by forced entry if necessary, to enter into and upon the Lands and the Building, or part thereof in the name of the whole, and, if this Lease has not already expired or been forfeited or terminated, to terminate this Lease by leaving upon the Lands notice in writing of such termination. If the Lessor terminates this Lease pursuant to this section 18.1, or otherwise as a result of default of the Lessee, or if the Lessee has forfeited this Lease, the Lessee will be liable to the Lessor for the rents and all other amounts to be paid and the covenants to be performed by the Lessee up to the date of such termination or forfeiture.

## 18.2 Notice to and Remedies of Mortgagee

The following provisions will apply with respect to any Mortgagee:

- (a) no re-entry, termination or forfeiture of this Lease by the Lessor will be valid against the Mortgagee who has filed with the Lessor a notice of Mortgage and specified an address for notice in accordance with Article 25, unless the Lessor has first given to the Mortgagee written notice of the default or contingency entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default or contingency, and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
  - (i) to cure the default or contingency specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or
  - (ii) if the default or contingency is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and if the default or contingency cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency,

and the Lessor hereby grants the Mortgagee access to the Lands and the Building for that purpose. If the default or contingency is cured within the period specified, or in the circumstances referred to in 18.2(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term remaining at the date of the notice of default or contingency providing that the Mortgagee attorns as tenant to the Lessor and undertakes to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease until such Mortgagee as tenant assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease. If the Mortgagee consists of more than one mortgagee, each having a separate charge upon the Lessee's interest in this Lease, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default or contingency specified as aforesaid by that Mortgagee that is willing to cure the default or contingency and attorn as tenant as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and attorn as aforesaid, except that in the event that any Mortgagee has commenced a foreclosure action, the provisions of section 18.2(b) will apply;

- (b) in the event the Mortgagee commences foreclosure proceedings against the Lessee, whether or not the Lessee is in default of the performance of its covenants and agreements with the Lessor under this Lease at the time such foreclosure proceedings are commenced, the Lessor will not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default or contingency entitling the Lessor to re-enter, terminate or forfeit this Lease if the Mortgagee:
  - (i) has given to the Lessor notice of the foreclosure proceedings;
  - (ii) is actively prosecuting the foreclosure proceedings;
  - (iii) except for the bankruptcy or insolvency of the Lessee, which will be governed by section 18.2(c), cures the default or contingency within a period of sixty (60) days from the date of receipt of notice from the Lessor specifying the nature of the default or contingency, or if the default or contingency is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or contingency cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency; and
  - (iv) performs and observes all of the Lessee's covenants and agreements under this Lease, except for any obligation to cure the bankruptcy or insolvency of the Lessee and except for the obligations of the Lessee which the Mortgagee is exempt from fulfilling, pursuant to the terms of

this Lease, and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee;

provided, however, that if the Mortgagee is an Approved Lender, the Corporation or the Commission, the curing of the default or contingency may be delayed until the earlier of the date of the assignment of this Lease to a third party or an Approved Lender, the Corporation or the Commission acquiring the Lessee's interest in this Lease. In the event that the Mortgagee acquires the Lessee's interest in the Lands and Building pursuant to the foreclosure proceedings, the Mortgagee will thereupon become subrogated to the rights of the Lessee under this Lease, provided it attorns to the Lessor as tenant and undertakes to be bound by and perform the covenants and agreements of this Lease until such Mortgagee as Lessee assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform the covenants and agreements of this Lease. If the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default or contingency granted by this section 18.2(b) to a foreclosing Mortgagee will be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees;

- (c) if this Lease is subject to termination or forfeiture pursuant to Article 17 by reason of the bankruptcy or insolvency of the Lessee and the Mortgagee has filed with the Lessor a notice of Mortgage in favour of the Mortgagee and specified an address for notice in accordance with Article 25, the Lessor will give to the Mortgagee notice of the bankruptcy or insolvency of the Lessee entitling the Lessor to terminate or forfeit this Lease and stating the Lessor's intention to take such proceedings and requiring the Mortgagee to cure the Lessee's default under this Lease (except for the bankruptcy or insolvency of the Lessee), and the Lessee's default will be deemed to have been sufficiently cured if the Mortgagee:
  - (i) takes possession and control of the Lands and Building, or causes a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, which receiver will take possession and control of the Lands and Building, and the Lessor hereby grants the Mortgagee or such receiver access to the Lands and Building for that purpose;
  - (ii) cures every default under this Lease (except for the bankruptcy or insolvency of the Lessee) within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Lessor of the bankruptcy or insolvency of the Lessee, or if such default or defaults are other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that if the Mortgagee is an

Approved Lender, the Commission or the Corporation, the curing of the default or contingency may be delayed until the earlier of the date of the assignment of this Lease to a third party or an Approved Lender, the Commission or the Corporation acquiring the Lessee's interest in this Lease; and

- (iii) subject to the right of an Approved Lender, the Commission or the Corporation to delay the curing of the default or contingency as set out in section 18.2(c)(ii), attorns as tenant to the Lessor and undertake to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease until such Mortgagee, as tenant, assigns its leasehold estate as permitted under this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease.

If the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Lease as aforesaid will be deemed granted to them in the order of the priority of their respective charges;

- (d) any re-entry, termination or forfeiture of this Lease made in accordance with the provisions of this Lease as against the Lessee will be valid and effectual against the Lessee even though made subject to the rights of any Mortgagee to cure any default of the Lessee and to continue as tenant under this Lease; and
- (e) no entry upon the Lands or into the Building by the Mortgagee for the purpose of curing any default of the Lessee will release or impair the continuing obligations of the Lessee.

### 18.3 Remedies of Lessor and the Commission are Cumulative

The remedies of the Lessor and the Commission specified in this Lease are cumulative and are in addition to any remedies that the Lessor and the Commission may have at law or equity. No remedy will be deemed to be exclusive, and the Lessor and the Commission may from time to time have recourse to one or more or all of the available remedies specified herein, or at law or equity. In addition to any other remedy provided in this Lease, the Lessor and the Commission will be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements contained herein.

### 18.4 Waiver by Lessor and Commission

The failure of the Lessor or the Commission to insist upon the strict performance of any covenant or agreement contained in this Lease will not waive such covenant or agreement, and the waiver by the Lessor or the Commission of any breach of any covenant or agreement of the Lessee under this Lease will not constitute a waiver of such covenant or agreement in respect of any other breach. The receipt and acceptance by the Lessor of rent or other monies due hereunder with knowledge of

any breach of any covenant or agreement by the Lessee will not constitute a waiver of such breach. No waiver by the Lessor or the Commission will be effective unless made in writing.

## ARTICLE 19 ARBITRATION

### 19.1 Arbitration

If a disagreement arises pursuant to sections 4.2, or 6.1, the same will be settled by arbitration. The arbitration will be conducted by a single arbitrator chosen by the Commission which arbitrator will be at arm's length from the Commission. The costs and expenses of the arbitration will be dealt with as follows:

- (a) each party will bear its own expense of preparing and presenting its case to the arbitrator, irrespective of whether any such expense was incurred or contracted for prior to the appointment of the arbitrator, including the expenses of appraisals, witnesses and legal representation; and
- (b) the fees of the arbitrator will be shared by the parties equally unless the arbitrator decides otherwise.

The *Arbitration Act* (British Columbia) will apply with respect to the arbitration. If an Approved Lender or the Corporation holds a Mortgage of the Lessee's leasehold interest in the Lands and Building, any notice of arbitration given under this section by one of the parties to the others will be given at the same time to such Mortgagee, if it has specified an address for notice, and such Mortgagee so notified will be given a reasonable opportunity by the parties to participate in the arbitration proceedings if it considers such proceedings may affect the Mortgage security.

## ARTICLE 20 SURRENDER OF LEASE

### 20.1 Surrender of Lease

Subject to the obligations of the Lessee contained in sections 10.5(c) and 10.6(b), at the termination or expiration of the Term, whether by forfeiture, default or lapse of time, the Lessee will surrender the Lands and Building to the Lessor in the condition in which they were required to be kept by the Lessee pursuant to the provisions of this Lease.

## ARTICLE 21 QUIET ENJOYMENT, OWNERSHIP OF LESSEE'S FIXTURES AND OWNERSHIP OF BUILDING

### 21.1 Covenant for Quiet Enjoyment

Subject to the Lessor's and the Commission's rights herein, and subject to the Permitted Encumbrances as extended or modified from time to time, if the Lessee pays the rent hereby reserved and all other amounts payable hereunder, and observes and performs all of the obligations, covenants and agreements of the Lessee herein contained, the Lessee may peaceably enjoy and possess the Lands and Building for the Term, without any interruption or disturbance whatsoever from the Lessor or any



other person, firm or corporation lawfully claiming through, from or under the Lessor, provided however that the enforcement by the Lessor, in its capacity as a civic body, of laws, bylaws and orders that touch and concern the Lands and Building will not be a breach of the Lessor's covenant set forth in this section 21.1.

#### 21.2 Ownership of Lessee's Fixtures

The Lessee, tenants or occupants of the Building have the right of property in, or the right to remove, fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Building or the Lands. The Lessee will make good, or will cause such tenants to make good, any damage to the Building caused by any removal of the tenants' fixtures.

#### 21.3 Ownership of Building

The Building will become the absolute property of the Lessor, free and clear of all liens, charges, encumbrances, equities or claims of any kind or nature whatsoever, save and except for the Permitted Encumbrances, upon the expiration or earlier termination of the Term or any permitted period of overholding, but will be deemed, as between the Lessor and the Lessee during the Term, to be the separate property of the Lessee and not of the Lessor but subject to and governed by all the provisions of this Lease, provided always that the Lessor's absolute right of property in the Building, which will arise at the expiration or earlier termination of the Term or any permitted period of overholding, will take priority over any other interest in the Building that may now or hereafter be created by the Lessee without the prior written consent of the Lessor, and provided that all dealings by the Lessee with the Building which in any way affect title thereto will be made expressly subject to this right of the Lessor and the Lessee will not assign, encumber or otherwise deal with the Building separately from any permitted dealing with the leasehold interest under this Lease, to the intent that no person will hold or enjoy any interest in this Lease acquired from the Lessee who does not at the same time hold a like interest in the Building.

### ARTICLE 22 OVERHOLDING

#### 22.1 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee will hold over and the Lessor will accept rent after the expiration of the Term, the new tenancy thereby created will be a tenancy from month to month and not a tenancy from year to year and will be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month, provided however that the monthly Basic Rent payable by the Lessee will be the then market rental value of the Lands and the Building as determined from time to time in the bona fide opinion of the Lessor, and such monthly Basic Rent will be paid in advance. The Lessee will also pay monthly as Additional Rent one-twelfth of the then current sums described in section 3.1.

ARTICLE 23  
ADDITIONAL RIGHTS OF THE COMMISSION

23.1 Notice to Commission

Unless otherwise agreed in writing by the Commission and unless failure of the Lessor to act in the circumstances would result in an emergency situation, the Lessor may not exercise any of its rights which arise as a result of a default by the Lessee under this Lease until ninety (90) days (the "Notice Period") after receipt by the Commission of written notice describing the Lessee's default.

If at the expiration of the Notice Period:

- (a) the Commission has not cured such default or in the case of a default which cannot, with due diligence, be cured within the Notice Period, if the Lessee does not commence to cure the default within the Notice Period and thereafter diligently proceed to cure the default; or
- (b) the Commission has not given the Lessor a notice in writing (the "Attornment Notice") advising the Lessor that the Commission or its nominee will attorn as tenant under this Lease;

then the Lessor will be at liberty to proceed to exercise any of the powers given to it under this Lease.

Upon receipt of the Attornment Notice the Lessor will enter into the necessary agreement with the Commission or its nominee allowing it to attorn as tenant under the Lease.

23.2 Rights of Commission Not Limited

The Lessee and the Lessor agree that the rights given to the Commission pursuant to Article 23 are not to be construed in any manner whatsoever so as to limit or otherwise prejudice the rights of the Commission as against the Lessee under any Operating Agreement or any other agreement between the Commission and the Lessee or the Commission and the Lessor.

23.3 Commission May Perform Obligations of Lessee

Where the Commission chooses to perform an obligation of the Lessee under this Lease in order to avoid forfeiture, the Lessor will accept that performance as if the same had been performed by the Lessee.

ARTICLE 24  
ENVIRONMENTAL MATTERS

24.1 Definitions

For the purposes of this Article 24:

- (a) "Contaminants" mean any pollutants, contaminants, deleterious substances, underground or aboveground tanks, asbestos materials, urea formaldehyde,

dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance which is now or hereafter prohibited, controlled or subject to Environmental Laws; and

- (b) “Environmental Laws” means any statute, law, regulation, order, bylaw, standard, guideline, permit and other lawful requirement of any governmental authority having jurisdiction over the Lands or Building, now or hereafter in force and relating in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, and includes the principles of common law and equity.

## 24.2 Lessee’s Covenants and Indemnity

The Lessee covenants and agrees as follows:

- (a) not to use or permit to be used all or any part of the Lands or Building for the sale, storage, manufacture, disposal, handling, treatment, use or any other dealing with Contaminants, without the prior written consent of the Lessor, which consent may be arbitrarily or unreasonably withheld;
- (b) to strictly comply, and cause all persons for whom it is at law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Lands and Building;
- (c) to promptly provide to the Lessor a copy of any environmental site investigation, assessment, audit or report relating to the Lands or Building and conducted by or for the Lessee at any time before, during or after the Term, or any renewal or extension thereof. The Lessee hereby waives the requirement for the Lessor to provide a site profile for the Lands pursuant to the *Environmental Management Act* (British Columbia), any regulations enacted pursuant thereto, or any similar or successor legislation;
- (d) to promptly provide to the Lessor on request such written authorizations as the Lessor may require from time to time to make inquiries of any governmental authorities regarding the Lessee’s compliance with Environmental Laws;
- (e) to promptly notify the Lessor in writing of the existence or release of any Contaminant on, in or under the Lands or Building or of any other occurrence or condition at the Lands or any adjacent property that could contaminate the Lands or the Building or result in the non-compliance of the Lands or Building with Environmental Laws, or subject the Lessor or Lessee to any fines, penalties, orders, investigations or proceedings under Environmental Laws;
- (f) on the expiry or earlier termination of this Lease, or at any time if requested by the Lessor or required pursuant to Environmental Laws, to remove from the Lands and Building all Contaminants, and to remediate any contamination of the Lands or any adjacent or other affected property resulting from Contaminants, in either case brought onto, used at, created upon or released from the Lands by the Lessee or any person for whom the Lessee is at law responsible. The Lessee will perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants will remain the property of the Lessee, notwithstanding any rule of law or other provision

of this Lease to the contrary and notwithstanding their degree of affixation to the Lands or Building; and

- (g) without limiting the generality of Article 14, to indemnify the Lessor, the Commission and their respective Personnel and contractors from any and all Losses (including the cost of remediation of the Lands and Building and any other affected property) arising from or in connection with:
  - (i) any breach of or non-compliance with the provisions of this Article 24 by the Lessee; or
  - (ii) the release or alleged release of any Contaminants at or from the Lands related to or as a result of the use and occupation of the Lands and Building by, or any act or omission of, the Lessee or any person for whom the Lessee is responsible at law.

The obligations of the Lessee under this Article 24 will survive the expiry or earlier termination of this Lease, and the obligations of the Lessee under this Article 24 are in addition to, and will not limit, the other obligations of the Lessee under this Lease.

## ARTICLE 25 NOTICES

### 25.1 Notices

All notices, demands and request which may or are required to be given pursuant to this Lease will be in writing and will be sufficiently given if served personally upon the party for which it is intended, or mailed prepaid and double registered:

- (a) in the case of the Lessor, addressed to:

Capital Regional District  
625 Fisgard Street  
Victoria, BC V8W 2S7

Attention: Manager, Real Estate Services

- (b) in the case of the Lessee, addressed to:

●

Attention: \_\_\_\_\_

- (c) in the case of the Commission, addressed to:

British Columbia Housing Management Commission  
Suite 1701 - 4555 Kingsway  
Burnaby BC V5H 4V8  
Attention: Manager Real Estate Services

or at such other addresses as each of the parties may from time to time advise by notice in writing. Mortgagees will supply their respective mailing addresses to the Lessor and the Lessee. The date of receipt of any such notice, demand or request will be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed as aforesaid on the fifth business day next following the date of such mailing; provided, however, that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice will be deemed to be received when actually delivered.

## ARTICLE 26 EASEMENTS

### 26.1 Easements

During the Term:

- a) the Lessor will not amend nor discharge the easements benefiting the Lands registered against the Lands under Nos. CB445511 and CB445519; and
- b) the Lessee will fulfill the obligations of and will enjoy the benefits conferred upon the grantee in the easements.

## ARTICLE 27 MISCELLANEOUS

### 27.1 Statements by Lessor

The Lessor and the Lessee agree that at any time and from time to time, upon not less than thirty (30) days prior request by the other party, each will execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect, or if there have been modifications, the nature of such modifications and that the same are in full force and effect as modified;
- (b) the dates to which the rent and any other amounts payable under this Lease have been paid; and
- (c) that to the best of the information and belief of the maker of the statements, the Lessor and the Lessee are not in default under any provision of this Lease, or, if in default, the particulars thereof.

### 27.2 Time of Essence

Time will be of the essence of this Lease, save as otherwise specified herein.

### 27.3 Formality of Modifications

This Lease may not be modified or amended except by an instrument in writing executed by the Lessor and the Commission or their successors or assigns, and by the Lessee or its successors or permitted assigns.

#### 27.4 Captions and Headings

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained therein will in no way be held or deemed to define, limit, describe explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

#### 27.5 Enurement

This Lease will extend to, be binding upon and enure to the benefit of the Lessor, the Commission and the Lessee, the successors and assigns of the Lessor and the Commission, and the successors and permitted assigns of the Lessee.

#### 27.6 Covenants or Conditions

All of the provisions of this Lease will be deemed and construed to be conditions as well as covenants, as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

#### 27.7 References

The words "herein", "hereby", "hereunder" and words of similar import refer to this Lease as a whole and not to any particular Article, section or subsection in this Lease.

#### 27.8 Execution

By signing the General Instrument, the parties have agreed to be bound by their respective obligations contained in this Lease.

**REPORT TO HOSPITALS AND HOUSING COMMITTEE  
MEETING OF WEDNESDAY, MARCH 01, 2023**

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**SUBJECT**     **Prosser Place Development Mortgage Registration: 7612 East Saanich Road**

**ISSUE SUMMARY**

British Columbia Housing Management Commission (BCHMC) requires a Resolution of Directors from the Capital Region Housing Corporation (CRHC) Board of Directors to authorize the execution of the mortgage documents for Prosser Place located at 7612 East Saanich Road in Central Saanich.

The *Policy to Determine Delegation of Authority for the CRHC* requires that all documents relating to mortgages valued over \$500,000 be approved by the CRHC Board of Directors.

**BACKGROUND**

In April 2021, the CRHC Board resolved to authorize the execution and delivery of; *'all documents required by BCHMC or the lender of the monies, including any takeout lender, in such form and containing such terms, covenants, provisions and conditions as are satisfactory to or required by them, including without limitation a lease, Section 219 covenant, mortgage, assignment of rents, security agreement (and any assignments, modifications and assumptions thereto as approved by BCHMC) and affordable housing agreement (if applicable) and operator/operating agreement.'* At that time, the project budget was \$16,981,555 which included \$3,615,000 as grants and \$3,250,000 as a forgivable mortgage.

In October 2022, the Capital Regional District (CRD) Board approved the Regional Housing First Program (RHFP) contribution to increase the grant amount from \$3,000,000 to \$4,000,000. The additional equity was used to address the unanticipated construction cost escalations resulting from supply chain challenges related to various building components and alterations to the design and schedule to accommodate changes in the shoring systems that resulted from a rescinded encroachment agreement with the neighbouring property. Additionally, BCHMC received approval to increase the forgivable mortgage contribution from \$3,250,000 to \$4,186,013.

In December 2022, the Major Capital Plan (2023-2027) outlined the revised project budget of \$18,928,091, including \$9,501,013 in equity contributions. On the closing date, the CRHC will lease the property from CRD at a value of \$13,613,091, which includes \$9,427,078 as a repayable mortgage and \$4,186,013 as a forgivable mortgage.

As is usual, the CRHC Board approved the general form of resolution, expecting BCHMC to make minor amendments to its form, prior to closing. Now that the project is in the final stages, the resolution has been finalized for civic address, legal address and PID on conclusion of the subdivision from the parent parcel, and final borrowing amounts as approved by the CRHC Board in December 2022.

## **ALTERNATIVES**

### *Alternative 1*

The Hospitals and Housing Committee recommends to the Capital Region Housing Corporation Board:

- 1) That the resolutions, attached as Appendix A and Appendix B and required by British Columbia Housing Management Commission to authorize the execution of the Section 219 Covenants and the loan and mortgage documents for 7612 East Saanich Road be approved;
- 2) That the Chief Administrative Officer be authorized to do all things necessary to affect the project and take such steps as are required to conclude the financing and purchase of the Prosser Place development project located at 7612 East Saanich Road.

### *Alternative 2*

That the Prosser Place Development Mortgage Registration: 7612 East Saanich Road report be referred to staff for additional information based on Hospital and Housing Committee direction.

## **IMPLICATIONS**

### *Financial Implications*

The approved project budget is \$18,928,091, which includes \$9,501,013 in equity. Equity consists of grant funding from the RHFP, Regional Housing Trust Fund (RHTF), interest accrued from the Rapid Housing Initiative (RHI) fund and forgivable mortgages through Investment in Housing Initiative (IHI) and Deepening Affordability (DA). The CRHC will take on mortgage debt of \$9,427,078.

**Table 1 – Prosser Place Equity Summary**

RHFP	\$ 4,000,000
RHTF	\$ 615,000
IHI	\$ 3,750,000
DA	\$ 436,013
RHI Interest	\$ 700,000
Mortgage	\$ 9,427,078
Total Project Budget	\$ 18,928,091

Short-term financing and take-out financing must be secured to advance the purchase of Prosser Place. At closing, in April 2023, the repayable mortgage will be provided initially as short-term financing through BCHMC Community Partnership Initiative (CPI) Financing Program. Short-term financing will be subject to interest payments at a variable rate. The repayable mortgage will be up to a maximum amount of \$9,427,078, depending on the interest accrued until the interest adjustment date (IAD). The IAD should take place within three months following the final advancement of the principal amount. On the IAD, the loan and interest owed will convert to a fixed rate take-out mortgage, which is estimated to be in place by July 1, 2023. BCHMC will undertake a competitive procurement process to place the debt with a lender. Once a lender has been secured, the mortgage documents will be modified to reflect the take-out lender, fixed interest rate, term, and take-out mortgage amount, as applicable.



In October 2022, BCHMC approved this project with an estimated fixed interest rate of 4.57% however, the actual rate may change depending on the market conditions at the time of take-out financing. The Bank of Canada interest rate decisions between October 2022 and the IAD may affect the actual rate compared to BCHMC's interest rate projection. For reference, 2782 Spencer secured take-out financing at a rate of 3.71% for January 1, 2023.

The CRHC will pay BCHMC a non-refundable commitment fee of 1% of the loan amount and the Canadian Mortgage and Housing Corporation loan insurance fee of \$75 per residential unit, totalling \$3,825. These financing costs are accounted for in the approved project budget.

### **CONCLUSION**

The CRHC must secure short-term and take-out financing to complete the purchase of the Prosser Place development project. BCHMC will provide short-term financing until the IAD at which time the short-term financing will convert to a take-out mortgage through a competitive procurement process. BCHMC requires a Resolution of Directors from the CRHC Board of Directors to authorize the execution of the mortgage documents for Prosser Place.

### **RECOMMENDATION**

The Hospitals and Housing Committee recommends to the Capital Region Housing Corporation Board:

- 1) That the resolutions, attached as Appendix A and Appendix B and required by British Columbia Housing Management Commission to authorize the execution of the Section 219 Covenants and the loan and mortgage documents for 7612 East Saanich Road be approved;
- 2) That the Chief Administrative Officer be authorized to do all things necessary to affect the project and take such steps as are required to conclude the financing and purchase of the Prosser Place development project located at 7612 East Saanich Road.

Submitted by:	Don Elliott, 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:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

### **ATTACHMENTS:**

Appendix A: Draft Certified Copy of Resolution of Directors – Repayable Loan

Appendix B: Draft Certified Copy of Resolution of Directors – Forgivable Loan

**CAPITAL REGION HOUSING CORPORATION**  
(the "Borrower")

CERTIFIED COPY OF  
RESOLUTION OF DIRECTORS

"WHEREAS the Borrower has leased or will be leasing the property at 7612 EAST SAANICH ROAD, SAANICHTON, BC legally described as:

**PID: 031-883-486; Lot 1, Section 7, Range 2 East, South Saanich District, Plan EPP108784**  
(the "Property")

and will be operating a housing project on the Property (the "Project") under the under the British Columbia Housing Management Commission ("BCHMC") Investment in Housing Innovation Program; and

WHEREAS the Borrower needs to borrow money in order to facilitate the leasing of the Property;

BE IT RESOLVED THAT:

1. The Borrower borrow up to a maximum amount of \$9,427,078.00, or such other amount as may be approved by the directors, by way of a repayable loan secured by a mortgage, as required to facilitate the leasing of the Property and grant to BCHMC a covenant restricting the use of the Property in accordance with the Loan Commitment Letter;
2. The Borrower execute and deliver all documents required by BCHMC or the lender of the monies, including any takeout lender, in such form and containing such terms, covenants, provisos and conditions as are satisfactory to or required by them, including without limitation a lease, Section 219 covenant, mortgage, assignment of rents, security agreement (and any assignments, modifications and assumptions thereto as approved by BCHMC) and affordable housing agreement (if applicable) and operator/operating agreement; and
3. Edward Robbins, Chief Administrative Officer, and Nelson Chan, Chief Financial Officer, or their duly authorized delegates, or one or more officers or directors of the Borrower, for and on behalf of the Borrower, be and are hereby authorized to execute and deliver under the seal of the Borrower or otherwise, all such deeds, documents and other writings and to do such acts and things in connection with the Property and the Project as they, in their discretion, may consider to be necessary or desirable for giving effect to this resolution and for the purpose of fulfilling the requirements of BCHMC or the lender of the monies."

I, \_\_\_\_\_, THE UNDERSIGNED, \_\_\_\_\_ of **CAPITAL REGION HOUSING CORPORATION** hereby certify the above to be a true copy of a resolution duly passed by the Directors of the Borrower at a meeting held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ (and sanctioned by a special resolution of the Borrower if such sanction is required), and that such resolution has not been rescinded, amended or modified and is now in full force and effect.

WITNESS my hand this       day of       , 2023.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(Corporate Officer)

**CAPITAL REGION HOUSING CORPORATION**  
(the "Borrower")

CERTIFIED COPY OF  
RESOLUTION OF DIRECTORS

"WHEREAS the Borrower has leased or will be leasing the property at 7612 EAST SAANICH RD, SAANICHTON, BC legally described as:

**PID: 031-883-486; Lot 1, Section 7, Range 2 East, South Saanich District, Plan EPP108784** (the "Property")

and will be operating a housing project on the Property (the "Project") under the British Columbia Housing Management Commission ("BCHMC") Investment in Housing Innovation Program and Deepening Affordability Fund Program; and

WHEREAS the Borrower needs to borrow money in order to facilitate the leasing of the Property;

BE IT RESOLVED THAT:

1. The Borrower borrow up to a maximum amount of \$4,186,013.00, or such other amount as may be approved by the directors, by way of a forgivable loan secured by a mortgage as required to facilitate the leasing of the Property and grant to BCHMC a covenant restricting the use of the Property in accordance with the Loan Commitment Letter;
2. The Borrower execute and deliver all documents required by BCHMC or the lender of the monies, including any takeout lender, in such form and containing such terms, covenants, provisos and conditions as are satisfactory to or required by them, including without limitation a lease, Section 219 covenant, mortgage, assignment of project agreements, (and any assignments, modifications and assumptions thereto as approved by BCHMC) and affordable housing agreement (if applicable) and operator/operating agreement; and
3. Edward Robbins, Chief Administrative Officer, and Nelson Chan, Chief Financial Officer, or their duly authorized delegates, or one or more officers or directors of the Borrower, for and on behalf of the Borrower, be and are hereby authorized to execute and deliver under the seal of the Borrower or otherwise, all such deeds, documents and other writings and to do such acts and things in connection with the Property and the Project as they, in their discretion, may consider to be necessary or desirable for giving effect to this resolution and for the purpose of fulfilling the requirements of BCHMC or the lender of the monies."

I, \_\_\_\_\_, THE UNDERSIGNED, \_\_\_\_\_ of **CAPITAL REGION HOUSING CORPORATION** hereby certify the above to be a true copy of a resolution duly passed by the Directors of the Borrower at a meeting held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ (and sanctioned by a special resolution of the Borrower if such sanction is required), and that such resolution has not been rescinded, amended or modified and is now in full force and effect.

WITNESS my hand this       day of       , 2023.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(Corporate Officer)

## REPORT TO HOSPITALS AND HOUSING COMMITTEE MEETING OF [MEETING DATE]

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**SUBJECT**     2859 Richmond 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 one one-bedroom below-market home ownership unit at a housing development proposed for 2859 Richmond Road in the District of Saanich.

### **BACKGROUND**

The CRD currently administers 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 Lapis Homes Ltd. (the Developer) regarding a proposed housing development that will include one resale price-restricted, below-market one-bedroom housing unit as part of the project. The District of Saanich and the Developer have requested the CRD administer resales of the below-market unit.

The unit is part of a proposed nine unit residential strata townhouse development, with no onsite parking, located at 2859 Richmond Road in the District of Saanich. The terms of the Housing Agreement (Appendix A, Appendix 1) and Bylaw (Appendix A) require sales of the below-market unit be restricted to a sale price no higher than 20% below Fair Market Value (i.e., Maximum Price), as determined by an appraisal. A qualified buyer for the initial sale of the Affordable Unit is restricted to:

- a first time home buyer, being a buyer who has not owned a principal residence for at least five years immediately prior to the date of purchase of an Affordable Unit;
- a resident of the CRD from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;
- a person who provides Proof of Income that their annual gross household income is, for at least one year immediately prior to the date of purchase of an Affordable Unit, within BC Housing Low and Moderate Income Limits, as determined by size of unit, and set by BC Housing from time to time; and
- a person who intends to immediately use and occupy the Affordable Unit as their principal residence.

The above buyer qualifications apply to subsequent sales, with the exception of income requirements which may be adjusted by the CRD in order to respond to prevailing market conditions.

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 most effectively 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. To secure the rights under the housing agreement, the CRD will also take an Option to Purchase and Right of First Refusal (Appendix B).

## **ALTERNATIVES**

### *Alternative 1*

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

1. That Bylaw No.4539, "Resale Control and Housing Agreement Bylaw (2859 Richmond Road), 2023" be introduced and read for a first, second and third time; and
2. That Bylaw No. 4539 be adopted.

### *Alternative 2*

That the 2859 Richmond Road Housing Agreement and Bylaw report be referred back to staff for additional information based on Capital Regional District Board direction.

## **IMPLICATIONS**

### *Financial Implications*

The CRD administers a one-time fee of \$3,500 (plus tax) 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 the terms of use of the affordable unit has a cost associated with it, which is factored into the program by charging the buyer a fee of 0.5% of the gross selling price of the unit at time of completion (e.g., \$1,500 on a \$300,000 sale). The administration fee is subject to change with market fluctuations and consideration of staff time and other resources to ensure full cost recovery for the provided service.

### *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. The resale control also ensures a degree of ongoing affordability that is available to future eligible buyers for the duration of the agreement.

### *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

the unit. 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.4539, “Resale Control and Housing Agreement Bylaw (2859 Richmond Road), 2023” be introduced and read for a first, second and third time; and
2. That Bylaw No. 4539 be adopted.

Submitted by:	Don Elliott, MUP, Senior Manager, Regional Housing
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Kristen Morley, General Manager, Corporate Services & Corporate Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

**ATTACHMENTS**

Appendix A: Bylaw No. 4539, “Resale Control and Housing Agreement Bylaw (2859 Richmond Road), 2023”

Appendix B: Right of First Refusal and Option to Purchase (2859 Richmond Road Unit)

**CAPITAL REGIONAL DISTRICT  
BYLAW NO. 4539**

\*\*\*\*\*

**A BYLAW TO AUTHORIZE A HOUSING AGREEMENT  
(2859 RICHMOND ROAD)**

\*\*\*\*\*

**WHEREAS:**

- A. The owner of land legally described as LOT 9, BLOCK 5, PLAN VIP1107, SECTION 26 & 27, VICTORIA LAND DISTRICT, PID 007-912-277 wishes to develop it in the District of Saanich to provide, among a strata development of market housing, one unit of affordable housing, in the form of a one-bedroom unit;
- 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 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 (2859 Richmond Road), 2023".

READ A FIRST TIME THIS	___	day of	2023
READ A SECOND TIME THIS	___	day of	2023
READ A THIRD TIME THIS	___	day of	2023
ADOPTED THIS	___	day of	2023

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
CORPORATE OFFICER



1. Application

**Robert James Maguire**  
**1727 Jefferson Avenue**  
**Victoria BC V8N 2B3**  
**250-370-0300**

File 127/20  
1267767 B.C. LTD. - 2859 Richmond Rd  
Covenant, Rent Charge

2. Description of Land

PID/Plan Number	Legal Description
<b>007-912-277</b>	<b>LOT 9, BLOCK 5, SECTION 26, VICTORIA DISTRICT, PLAN 1107</b>

3. Nature of Interest

Type	Number	Additional Information
<b>COVENANT</b>		<b>Notice of Housing Agreement with registration number six (6) registration numbers more than this Covenant.</b>
<b>PRIORITY AGREEMENT</b>		<b>granting Covenant priority over Mortgage CA8509110</b>
<b>PRIORITY AGREEMENT</b>		<b>granting Covenant priority over Assignment of Rents CA8509111</b>
<b>RENT CHARGE</b>		
<b>PRIORITY AGREEMENT</b>		<b>granting Rent Charge priority over Mortgage CA8509110</b>
<b>PRIORITY AGREEMENT</b>		<b>granting Rent Charge priority over Assignment of Rents CA8509111</b>

4. Terms

Part 2 of this instrument consists of:  
**(b) Express Charge Terms Annexed as Part 2**

5. Transferor(s)

**1267767 B.C. LTD., NO.BC1267767**  
**VANCOUVER CITY SAVINGS CREDIT UNION, NO.FI 97**

6. Transferee(s)

**CAPITAL REGIONAL DISTRICT**  
**625 FISGARD STREET**  
**VICTORIA BC V8W 1R7**

7. Additional or Modified Terms






8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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.

Witnessing Officer Signature



**Marianne Phyllis Pilon**  
**Commissioner for Taking Affidavits**  
**for British Columbia**  
1727 Jefferson Avenue  
Victoria BC V8N 2B3

Execution Date

YYYY-MM-DD

**2023-02-21**

Transferor / Transferee / Party Signature(s)

**1267767 B.C. LTD.**  
By their Authorized Signatory



**Ryan Thomas Jabs**

Expiry date: February 28, 2025

**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.

Witnessing Officer Signature

\_\_\_\_\_

Execution Date

YYYY-MM-DD

Transferor / Transferee / Party Signature(s)

**CAPITAL REGIONAL DISTRICT**  
By their Authorized Signatory

\_\_\_\_\_

**Print Name**

\_\_\_\_\_

**Print 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.



Land Title Act  
**Charge**  
General Instrument – Part 1

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

Abby Pelaez  
A Commissioner for Taking  
Affidavits for British Columbia  
183 Terminal Avenue  
Vancouver, B.C. V6A 4G2  
Phone: 604-877-8274  
Expires: ~~September 30, 2024~~

YYYY-MM-DD

2023-02-21

**Vancouver City Savings Credit  
Union**

By their Authorized Signatory

Print Name

**Erin Kaliczak**  
Community Business Lending Coordinator

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

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### SECTION 219 COVENANT AND HOUSING AGREEMENT

#### WHEREAS:

- A. **1267767 B.C. 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 a nine (9) unit townhouse development on the Lands (the "**Strata Development**") and shall designate one (1) affordable one-bedroom 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 Units to ensure the availability of affordable housing in the District of 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 enter into 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 (the "**Housing Agreement**");
  - (b) an option to purchase an Affordable Unit if it is sold, rented or used in breach of the Covenant.

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 "Administration Fee" has the meaning given to it at section 2.2.8;
- 1.1.2 "Affordable Rate" means a rate determined from time-to-time by the NPO in its discretion with reference to BC Government guidelines, if any;
- 1.1.3 "Affordable Unit" or "Affordable Units" shall mean the one (1) strata lot, comprising of a single one-bedroom unit, to be designated by the Developer within the Strata Development as the strata lot to which this Agreement shall apply;
- 1.1.4 "Agreement" means this Covenant and Housing Agreement, including all recitals and schedules attached hereto;
- 1.1.5 "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;

- 1.1.6 "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;
- 1.1.7 "BC Housing Low and Moderate Income Limits" means the low and moderate income limits determined by BC Housing from time to time, by size of unit. For 2023, BC Housing Low and Moderate Income Limits are:
- For residential units with less than two (2) bedrooms, a gross household income that does not exceed the median income for couples without children in BC, as determined by BC Housing from time to time. For 2023, this figure is \$82,310 (compared to \$77,430 last year),
  - For residential units with two (2) or more bedrooms, a gross household income that does not exceed the median income for families with children in BC, as determined by BC Housing from time to time. For 2023, this figure is \$128,810 (compared to \$120,990 last year);
- 1.1.8 "Business Day" means any day other than Saturday, Sunday or a statutory holiday in the Province of British Columbia, or day that the LTO is not open for business;
- 1.1.9 "CMHC" means Canada Mortgage and Housing Corporation or any successor thereto;
- 1.1.10 "Covenant" has the meaning stated in Recital C and is the covenant set out in Section 2.1;
- 1.1.11 "CRD" has the meaning stated in Recital C;
- 1.1.12 "Developer" has the meaning stated in Recital A;
- 1.1.13 "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, without the benefit of a parking stall or other parking entitlement;
- 1.1.14 "General Instrument - Part 1" means the General Instrument - Part 1 to which this Terms of Instrument - Part 2 is attached;
- 1.1.15 "Immediate Family" means grandparent, parent, sibling, spouse, common-law partner, son or daughter;
- 1.1.16 "Insured Mortgage" means a mortgage insured pursuant to the *National Housing Act*, R.S.C. 1985, c. N-11;
- 1.1.17 "LTO" means the Land Title Office for the jurisdiction in which an Affordable Unit is located;
- 1.1.18 "Maximum Price " means the sale price for the sale of the Affordable Unit determined in accordance with Schedule "C".
- 1.1.19 "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;

- 1.1.20 "NPO Appraisal" has the meaning stated in Schedule "C";
- 1.1.21 "Option" means the option to purchase and right of first refusal granted by the Owner to CRD in substantially the form attached hereto as Schedule "D";
- 1.1.22 "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;
- 1.1.23 "Owner Appraisal" has the meaning stated in Schedule "C";
- 1.1.24 "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;
- 1.1.25 "Person" means any individual, society, corporation, partnership, trustee, administrator, legal representative, Statutory Authority or other legal entity;
- 1.1.26 "Proceeding" has the meaning stated in Section 2.3.1;
- 1.1.27 "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;
- 1.1.28 "Qualified Buyer" means an individual who meets the criteria stated in Schedule "B";
- 1.1.29 "Statutory Authority" means any federal, provincial or municipal governmental authority which has jurisdiction over any matter referred to in this Agreement;
- 1.1.30 "Term" means the period commencing on the date of registration of this Agreement in the LTO and ending on the later 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.
- 1.2 **Notice of Housing Agreement.** The Owner acknowledges and agrees that:
  - 1.2.1 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*;
  - 1.2.2 the CRD is required to file a notice of housing agreement in the Land Title Office against title to the Land; and
  - 1.2.3 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*.
- 1.3 **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.

- 1.4 **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.
- 1.5 **References.** In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.
- 1.6 **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.
- 1.7 **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.
- 1.8 **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.
- 1.9 **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.
- 1.10 **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.
- 1.11 **Schedules.** The following Schedules are attached to and form integral parts of this Agreement:
  - Schedule "A" Permitted Encumbrances
  - Schedule "B" Qualified Buyer Criteria
  - Schedule "C" Maximum Price, Fair Market Value
  - Schedule "D" Option to Purchase and Right of First Refusal (include a Schedule "A")

## 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 Maximum Price;
  - (iii) in accordance with this Agreement and the Option; and
  - (iv) in a way which complies with Section 2.2, or to CRD under the Option;
- (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 Maximum Price;
- (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;
- (d) the Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement and an Option, if required by the CRD, will be registered against title to the Land in priority to all charges and encumbrances which may have been registered or are pending registration against title to the Land save and except those specifically approved in writing by the CRD or in favour of the CRD,

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 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 and determine the Maximum Price in accordance with Schedule "C" attached hereto.

### **2.2.2 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.

**2.2.3 NPO Notifies Owner of Maximum Selling Price.**

Within 7 days after the Fair Market Value of the Affordable Unit has been determined under Schedule "C", the NPO will notify the Owner of the Maximum Price, determined under Schedule "C", at which time the Owner will be permitted to offer to sell the Affordable Unit, which price shall be deemed to be its Maximum Price.

In addition to the Maximum Price, the Owner will be entitled to charge the Qualified Buyer, the Administration Fee.

**2.2.4 Owner to Deliver True Copy of Sale Contract to NPO.**

For each sale of an Affordable Unit, 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.

**2.2.5 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 Maximum Price of the Affordable Unit;
- (b) include as a true condition precedent that the seller's obligation to sell is 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 as a true condition precedent that the seller's obligation to sell is subject to the seller notifying the buyer in writing that the CRD has approved the terms of the sale of the Affordable Unit to the buyer and that the CRD has decided not to exercise its right of first refusal or option to purchase the Affordable Unit with respect to this transaction only;
- (d) require the buyer to execute an agreement with the CRD, as a condition of closing, under which the buyer agrees that its purchase of the Affordable Unit is subject to the terms of this Agreement and the Option.

**2.2.6 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 2.2.5(b) above if the date of receipt by the NPO of a true



copy of the Sale Contract 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 Schedule C will begin again, with the Owner giving fresh notice to the NPO of their intention to sell the Affordable Unit.

**2.2.7 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.

**2.2.8 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 (the "Administration Fee"), such Administration 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, as material terms to the tenancy agreement:

- (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 and subject to the

*Residential Tenancy Act*, 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 CCPI.

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 5. INDEMNITY AND RELEASE**

- 5.1 **Indemnity.** The Owner indemnifies the CRD and its officers, directors, employees and agents and their respective heirs, executors, administrators, personal representatives, successors and assigns from any claims which anyone has or may have against the CRD or which the CRD incurs as a result of any loss, damage, deprivation, enrichment or injury, including economic loss, arising out of or connected with the restrictions or requirements of this Agreement, the breach of any covenant in this Agreement, the granting of any approvals or advice or direction respecting the

sale of the Affordable Unit or use of the Affordable Unit given to the Owner by any of them or by the NPO.

- 5.2 **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 or connected with the restrictions or requirements of this Agreement, the breach of any covenant in this Agreement, the granting of any approvals or advice or direction respecting the sale of the Affordable Unit or use of the Affordable Unit given to the Owner by any of them or by the NPO.

## SECTION 6. GENERAL PROVISIONS

- 6.1 **Discharge of Covenant on Strata Lots not designated as Affordable Units.** The parties agree that this Agreement is intended to only apply to the one (1) strata lot to be designated by the Developer as the Affordable Unit 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 one (1) Affordable Unit designated by the Developer, and this Agreement will only charge the Affordable Unit. 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.
- 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.
- 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.

**CONSENT AND PRIORITY AGREEMENT**

VANCOUVER CITY SAVINGS CREDIT UNION, having a Mortgage and Assignment of Rents registered in the Land Title Office at Victoria in the Province of British Columbia, under charge number CA8509110 and CA8509111, respectively, in consideration of the sum of ONE DOLLAR and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby approves of and consents to the foregoing grant of Covenant, Housing Agreement and Rent Charge and to their registration in the Land Title Office aforesaid with priority over the registration of the said Mortgage and Assignment of Rents.

AS EVIDENCE of its agreement with the Transferee to be bound by this Covenant and Priority Agreement, as a contract and as a deed executed and delivered under seal, VANCOUVER CITY SAVINGS CREDIT UNION has executed and delivered this agreement by executing Part I of the Land Title Act Form C to which this agreement is attached and which forms part of this agreement.

**SCHEDULE "A"**  
**PERMITTED ENCUMBRANCES**

Legal Notations:

NONE

Charges, Liens and Interests:

NONE

**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 household Income is, for at least one year immediately prior to the date of purchase of an Affordable Unit, within BC Housing Low and Moderate Income Limits, as determined by size of unit, and set by BC Housing from time to time;
- (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 is between the range set from time-to-time by the NPO in its sole discretion (which shall not be appealed) for at least one year immediately prior to the date of purchase of an Affordable Unit, it being understood and agreed that the NPO may, from time to time, grant an exemption from or vary such requirement if, in the opinion of the NPO and having regard to prevailing market conditions, such exemption or variation is consistent with the continued use and availability of the Affordable Unit as affordable housing; 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*.

**SCHEDULE "C"**  
**MAXIMUM PRICE, FAIR MARKET VALUE**

The Maximum Price shall be determined as follows:

1. Within 7 days after the Owner delivers the notice, as required by section 2.2.1, 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. 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 20%, 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.
3. 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 20%, 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.
4. The NPO will deliver a copy of the NPO Appraisal to the Owner within 7 days after the NPO receives the NPO Appraisal.
5. 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 20%, 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.

**SCHEDULE "D"**  
**RIGHT OF FIRST REFUSAL AND OPTION TO PURCHASE**

**WHEREAS:**

- A. The Owner is the registered owner in fee-simple of those lands and premises located within the Capital Regional District, in the Province of British Columbia, more particularly described as:
- PID: 007-912-277  
LOT 9, BLOCK 5, SECTION 26, VICTORIA DISTRICT, PLAN 1107  
(the "Lands")
- A. The Owner has entered into a Housing Agreement with the Capital Regional District (the "CRD") under section 483 of the *Local Government Act* and has granted to the CRD a Covenant under section 219 of the *Land Title Act* relating to certain restrictions on the use of the Land (collectively, the "Housing Agreement");
- B. Pursuant to the terms of the Housing Agreement, the Owner has agreed to use and occupy the Lands for the purposes of the Affordable Units on the Lands; and
- C. In order to ensure that the Affordable Unit is occupied and disposed of in accordance with the Housing Agreement, the Owner agrees to grant to the CRD a right of first refusal to purchase and an option to purchase the Affordable Unit on the terms and conditions set out in this Agreement.

**THIS AGREEMENT** is evidence that in consideration of the mutual promises contained in it and in consideration of the payment of \$2.00 by the CRD to the Owner, the receipt of sufficiency of which is hereby acknowledged by the Owner, the parties agree as follows:

**PART I – DEFINITIONS**

1. In this Agreement the following words have the following meanings:
- a. "Affordable Unit" means a Dwelling Unit designated as an affordable unit in accordance with the Housing Agreement, to be used, occupied and Disposed of in accordance with the Housing Agreement.
  - b. "Agreement" means this Agreement together with the General Instrument.
  - c. "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.
  - d. "Bona Fide Offer" means an offer to purchase the Owner's Interest in the Affordable Unit:
    - i. in writing;
    - ii. signed by an Outside Offeror;
    - iii. in a form legally enforceable against the Outside Offeror and subject to no conditions except for the CRD's Subjects;
    - iv. for a purchase price that is at or below the Maximum Price;

- v. providing that if the CRD does not exercise its right of first refusal as set forth in this Agreement, the Outside Offeror will grant to the CRD a right of first refusal and option to purchase the Lands upon the same terms and conditions as are set forth in this Agreement;
  - vi. providing that the Outside Offeror will not assign or transfer the contract for the purchase of the Affordable Unit; and
  - vii. confirming that the Outsider Offeror has read and understood the terms of this Agreement, the Housing Agreement and all other charges in favour of the CRD that are registered in the LTO against the Lands and that the Outside Offeror agrees to be bound by the owner's obligations pursuant to such charges.
- e. "Business Day" means Monday to Friday inclusive except for those excluded days declared by lawful authority as holidays, excluding any date that the LTO is not open for business.
- f. "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.
- g. "CRD's Subjects" mean the following clauses:

The obligation of the seller to complete the transaction contemplated herein is subject to the following (the "Seller's Conditions"):

- i. the seller notifying the buyer in writing, not later than 15 business days that the Capital Regional District has approved the terms of the sale of the Land to the buyer and that the Capital Regional District has decided not to exercise its right of first refusal and option to purchase the Land with respect to this transaction only; and
- ii. the Capital Regional District determining and notifying the Owner in writing no later than 15 business days that the Owner has complied with the requirements of the Housing Agreement regarding the sale, and that Capital Regional District is satisfied that the buyer is a Qualified Buyer as defined in the Housing Agreement.

The Seller's Conditions are for the sole benefit of the seller and may be satisfied by the seller by notice in writing to the buyer. If the Seller's Conditions are not satisfied on or before the date specified for their removal, this agreement will automatically be terminated, the deposit will be returned to the buyer, and neither party will have any further obligation to the other under this agreement.

- h. "Dispose" means to transfer by any method, and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release, and agree to do any of those things.
- i. "Dwelling Units" means all residential dwelling units located or to be located on the Land whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, into which ownership or right of possession or occupation of the Land may be Subdivided.

- j. "Environmental Law" means any applicable federal, provincial or municipal laws pertaining to the presence, handling, release or removal of Hazardous Substances.
- k. "General Instrument" means the Form C under the Land Title (Transfer Forms) Regulation, to which this Agreement is attached.
- l. "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.
- m. "Insured Mortgage" means a mortgage insured pursuant to the *National Housing Act*, R.S.C. 1985, c. N-11.
- n. "Interest" means the property interest of the Owner in the Affordable Unit.
- o. "LTO" means the Victoria Land Title Office or its successor.
- p. "Maximum Price" has the meaning given to it in the Housing Agreement.
- q. "Notice" means any written notice which CRD may deliver to the Owner under Section 8.
- r. "Notice Date" means the day on which the Owner is deemed by Section 41 to have received the Notice.
- s. "Outside Offeror" means a purchaser or prospective purchaser of the Affordable Unit who deals at arm's length with the vendor of the Affordable Unit.
- t. "Owner" means the Transferor described in the General Instrument and any subsequent owner of the Land or of any part into which the Land is Subdivided, and includes any person who is a registered owner in fee simple of an Affordable Unit from time to time.
- u. "Option Purchase Price" has the meaning given to it at section 12.
- v. "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.
- w. "Permitted Encumbrances" means those charges or encumbrances stated in Schedule "A" and any other encumbrances approved in writing by CRD but shall not include any mortgage or other financial encumbrance and shall not include this Agreement.
- x. "Person" means any individual, society, corporation, partnership, trustee, administrator, legal representative, Statutory Authority or other legal entity.
- y. "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.
- z. "Property" means the Affordable Unit and all Personal Property within the Affordable Unit.

- aa. "Qualified Buyer" means an individual who meets the criteria stated in Schedule "B" of the Housing Agreement registered against title to the Land.
- bb. "Subdivide" means to divide, apportion, consolidate or subdivide the Land, or the ownership or right to possession or occupation of the Land into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of "cooperative units" or "shared interests in land" as defined in the *Real Estate Act*.
- cc. "Transfer" means an instrument in a statutorily prescribed form by which the Owner transfers title to the Affordable Unit to CRD.
- dd. "Transaction" means transfer of an Affordable Unit from the Owner to CRD.

2. **Schedules**. The following Schedules are attached to and form integral parts of this Agreement:

Schedule "A" Permitted Encumbrances

**PART II – GENERAL**

- 3. During the Term, the Owner covenants and agrees that the Owner will not Dispose of its Interest in any Affordable Unit unless such Interest is Disposed of in accordance with this Agreement and the Housing Agreement.
- 4. The Owner will not Dispose of its Interest in the Affordable Unit other than to the CRD or to an Outside Offeror pursuant to a Bona Fide Offer.
- 5. Provided that the Owner is not in breach of any of its obligations under this Agreement or under the Housing Agreement, at the request of the Owner and the Owner's sole expense, the CRD will deliver to the Owner discharges of this Agreement in registrable form for each Dwelling Unit that:
  - a. is a separate legal parcel; and
  - b. is not an Affordable Unit.

**PART III – RIGHT OF FIRST REFUSAL**

- 6. The Owner covenants and agrees as follows:
  - a. the Owner will not sell or offer to sell the Affordable Unit for any consideration not consisting entirely of lawful money of Canada;
  - b. if the Owner receives an offer to purchase the Affordable Unit (the "Offer") which the Owner is willing to accept, then the Owner will offer to sell the Affordable Unit to the CRD on the terms that are set out in Part 5 of this Agreement, by giving to the CRD a notice in writing (the "RFR Notice") attached to a copy of the Offer. The CRD will have the exclusive right for ten (10) Business Days (the "Election Period") from the date on which the CRD receives from the Owner the RFR Notice and a copy of the Offer within which to purchase the Affordable Unit on the terms set out in Part V of this Agreement. The Owner agrees

that the CRD's Election Period to purchase the Affordable Unit will not start to run until the Owner gives to the CRD notice of the Offer;

- c. If the CRD wishes to exercise this right of first refusal, the CRD will give the Owner written notice of such exercise on or before the end of the Election Period.
- d. If the CRD does not exercise this right of first refusal with respect to a specific Offer, the CRD's rights under this right of first refusal with respect to the particular Offer will be waived, but only if the Offer is a Bona Fide Offer and only if the terms of sale between the Outside Offeror and the Owner are in strict compliance with the terms stated in the Offer, and if the Owner complies with the following requirements:
  - i. the Owner delivers to the CRD, within 10 Business Days after the delivery of the RFR Notice written proof, satisfactory to the CRD, in its sole discretion and including but not limited to the information required under Schedule B of the Housing Agreement, that the purchaser is a Qualified Buyer, and that the person agrees to be bound by all the agreements in favour of the CRD which affect the Affordable Unit, including but not limited to the Housing Agreement;
  - ii. the Owner does not remove the second part of the CRD's Subject until such time as the CRD informs the Owner that it is satisfied with the information provided pursuant to sub-section 5.d.i herein;
  - iii. at least 5 Business Days before completion of the sale pursuant to the Bona Fide Offer the Owner delivers to the CRD the following:
    - (1) written proof, satisfactory to the CRD, in its sole discretion, that the purchase price payable under the Bona Fide Offer is the Maximum Price;
    - (2) a signed Form C granting to the CRD an option to purchase and a right of first refusal to purchase the Affordable Unit (the "New Form C") on substantially the same terms as set out in this Agreement, with such amendments as the CRD may reasonably require;
    - (3) a discharge of this Agreement (the "Discharge") for execution by the CRD;
    - (4) undertakings from the solicitor or notary for the Outside Offeror (the "Legal Representative") on terms satisfactory to the CRD, including that:
      - (a) the Legal Representative will only register the Discharge if it is done concurrently with the registration of the New Form C;
      - (b) the Legal Representative will ensure that the New Form C is registered against the Affordable Unit in priority to all mortgages and other financial liens, charges and encumbrances, except for any charges in favour of the CRD;
      - (c) forthwith after registration of the New Form C, provide to the CRD copies of the Discharge and the New Form C with registration particulars endorsed thereon, and a copy of the State of Title



Certificate for the Land confirming registration of the New Form C;  
and

(5) a copy of the vendor's statement of adjustments for the Affordable Unit  
certified to be true by the Legal Representative; and

iv. upon request by the CRD, the Owner delivers to the CRD such further evidence  
as the CRD may reasonably require to confirm the purchase price of the Affordable  
Unit, and to confirm that the Outside Offeror has granted to the CRD an option to  
purchase and a right of first refusal to purchase the Affordable Unit.

#### **PART IV – GRANT OF OPTION**

7. The Owner hereby grants CRD an exclusive and irrevocable option to purchase the Property at the Option Purchase Price in accordance with Parts IV and V of this Agreement.
8. CRD may exercise the Option only if the Owner:
  - a. defaults in its obligations under the Housing Agreement; 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 Maximum Price or if the Owner was not, as of that date, a Qualified Buyer;
  - c. delivers the RFR Notice; or
  - d. defaults in its obligations under any mortgage of the Affordable Unit.
9. CRD may exercise the Option by delivering notice of exercise of the Option to the Owner (the "Notice").
10. 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 Part IV and V.

#### **PART V – PURCHASE AND SALE**

11. **Purchase and Sale** Subject to the terms and conditions of this Part V and relying on the warranties and representations herein set out, the Owner agrees to sell and CRD agrees to purchase the Property 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 Property to CRD or such other Person as CRD may designate.
12. **Option Purchase Price** Subject to adjustments as provided in this Agreement, the option to purchase price (the "Option Purchase Price") under the Option to Purchase shall be:
  - a. 95% of the Maximum Price; or
  - b. 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 Maximum Price, the amount owing under and required to discharge the mortgage or mortgages to the Approved Lender as at the Closing Date.

13. **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.
14. **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.
15. **Representations** The Owner hereby represents and warrants to, and covenants and agrees with the CRD, to transfer the Property to the CRD on the condition that as at the Closing Date that:
  - i. the Owner has not used the Affordable Unit or permitted any use of the Affordable Unit to store, manufacture, dispose of, emit, spill, leak, generate, transport, produce, process, release, discharge, landfill, treat or remediate any Hazardous Substances, including anything the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, remediation or release into the environment of which is now or at any time after the execution of this Agreement is prohibited, controlled, regulated or licensed under Environmental Laws;
  - ii. the Owner has not caused or permitted the storage, manufacture, disposal, emission, spilling, leakage, treatment, generation, transportation, production, processing, release, discharge, landfilling, treatment or remediation of any Hazardous Substances in, on, under or from the Affordable Unit;
  - iii. the Owner has at all times used the Affordable Unit in compliance with all Environmental Laws;
  - iv. the Owner will indemnify and save harmless the Regional District, and its elected and appointed officials, officers, employees and agents, from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs (including remediation costs and costs of compliance with any law, and legal fees and disbursements), expenses, fines and penalties, suffered or incurred by the CRD by reason of a breach of any representation or warranty, covenant or agreement of the Owner set forth in this Agreement. This obligation will survive the termination of this Agreement.
16. **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.
17. **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 Property, in which case neither party will have any further obligation to the other under this Part V 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.
18. **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 Property or any improvement to the Property. 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.
19. **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 of the Property 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 Part V.
20. **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.
21. **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.
22. **Closing** The Owner and CRD will complete the Transaction on the Closing Date at the offices of CRD or its lawyers.
23. **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. if required, 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 statutory declaration of the Owner that the Owner is a resident of Canada within the meaning of the Income Tax Act (Canada);
  - e. 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
  - f. 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 as adjusted under Section 21.
24. **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 21.
25. **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.
26. **Reimbursement** If CRD waives payment on the Closing Date of the amount referred to in Section 23.f., 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.
27. **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.

## **PART VI – INTERPRETATION**

28. **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.
29. **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.
30. **References** In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.

31. **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.
32. **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.
33. **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.
34. **Statute.** 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.
35. **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.

## PART VII – MISCELLANEOUS

36. **CRD Not Obligated to Exercise Right of First Refusal or Option** The Owner acknowledges and agrees that the CRD is under no obligation to exercise the rights granted under this Agreement.
37. **Duration of Option and Right of First Refusal** The option to purchase and right of first refusal hereby granted and the right of first refusal granted by this Agreement are effective until the date that is 80 years less a day after the date on which Form C referring to this Agreement is deposited for registration in the LTO, provided that if the perpetuity period for the Agreement as specified in the *Perpetuity Act* is increased or decreased in length than the term of this Agreement will be increased or decreased accordingly.
38. **Powers Unaffected** This Agreement does not:
  - a. affect or limit the discretion, rights, duties or powers of the CRD under any enactment or at common law, including in relation to the use or subdivision of the Land;
  - b. impose on the CRD any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;

- c. affect or limit any enactment relating to the use or subdivision of the Land; or
  - d. relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.
39. **Agreement for Benefit of CRD Only** The Owner and the CRD agree that;
- a. this agreement is entered into only for the benefit of the CRD;
  - b. this agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Property, the Land or the building or any portion thereof, including any Affordable Unit;
  - c. the CRD may at any time execute a release and discharge of this agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
40. **No Public Law Duty** Where the CRD is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the CRD is under no public law duty of fairness or natural justice in that regard and agrees that the CRD may do any of those things in the same manner as if it were a private party and not a public body.
41. **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.
42. **Fees** Each of the Owner and CRD will pay its own legal fees.
43. **Costs** Unless otherwise specified in this Agreement, the Owner will comply with all the requirements of this Agreement at its own cost and expense and will pay to the CRD, on request, all reasonable costs or expenses it incurs in connection with this Agreement.
44. **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.
45. **Further Assurance** Upon request by the CRD, the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the CRD to give effect to this Agreement.
46. **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.
47. **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.

48. **Amendment** This Agreement may only be amended by written agreement of the parties.
49. **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:**

HOUSING AGREEMENT in favour of the Capital Regional District  
HOUSING AGREEMENT in favour of the District of Saanich

**Charges, Liens and Interests:**

S.219 COVENANT in favour of the Capital Regional District  
RENT CHARGE in favour of the Capital Regional District  
S.219 COVENANT in favour of the District of Saanich





## 1. Application

**Robert James Maguire**  
**1727 Jefferson Avenue**  
**Victoria BC V8N 2B3**  
**250-370-0300**

File 127/20  
 1267767 B.C. Ltd. - 2859 Richmond Road  
 Option to Purchase, Right of First Refusal

## 2. Description of Land

PID/Plan Number	Legal Description
<b>007-912-277</b>	<b>LOT 9, BLOCK 5, SECTION 26, VICTORIA DISTRICT, PLAN 1107</b>

## 3. Nature of Interest

Type	Number	Additional Information
<b>RIGHT OF FIRST REFUSAL</b>		
<b>PRIORITY AGREEMENT</b>		<b>granting Right of First Refusal priority over Mortgage CA8509110</b>
<b>PRIORITY AGREEMENT</b>		<b>granting Right of First Refusal priority over Assignment of Rents CA8509111</b>
<b>OPTION TO PURCHASE</b>		
<b>PRIORITY AGREEMENT</b>		<b>granting Option to Purchase priority over Mortgage CA8509110</b>
<b>PRIORITY AGREEMENT</b>		<b>granting Option to Purchase priority over Assignment of Rents CA8509111</b>

## 4. Terms

Part 2 of this instrument consists of:

**(b) Express Charge Terms Annexed as Part 2**

## 5. Transferor(s)

**1267767 B.C. LTD., NO.BC1267767**  
**VANCOUVER CITY SAVINGS CREDIT UNION, NO.FI 97**

## 6. Transferee(s)

**CAPITAL REGIONAL DISTRICT**  
**625 FISGARD STREET**  
**VICTORIA BC V8W 1R7**

## 7. Additional or Modified Terms




8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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.

Witnessing Officer Signature


Execution Date

Transferor / Transferee / Party Signature(s)

  
**Robert James Maguire**  
**Barrister & Solicitor**  
1727 Jefferson Avenue  
Victoria BC V8N 2B3

YYYY-MM-DD  
2023 01 21

**1267767 B.C. LTD.**  
By their Authorized Signatory

  
**Ryan Thomas Jabs**

**Marianne Phyllis Pilon**  
**A Commissioner for Taking**  
**Affidavits for British Columbia**  
**Maguire & Company**

**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.


1727 Jefferson Avenue  
Victoria BC V8N 2B3  
Phone: 250-370-0300

**Expiry Date: February 28, 2025**

Witnessing Officer Signature

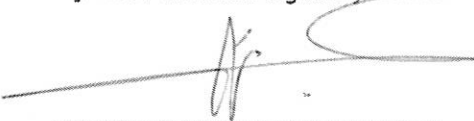
Execution Date

Transferor / Transferee / Party Signature(s)

  
**Moushume Akter**  
**A Commissioner for Taking**  
**Affidavits for British Columbia**  
183 Terminal Avenue  
Vancouver, B.C. V6A 4G2  
Phone: 778-877-6211

YYYY-MM-DD  
2023-02-17

**Vancouver City Savings Credit Union**  
By their Authorized Signatory

  
**Print Name**  
**Elle Karkari**  
**Community Business Lending Coordinator**

**Expiry Date: January 31, 2026**

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.

Witnessing Officer Signature

Execution Date

Transferor / Transferee / Party Signature(s)

\_\_\_\_\_

YYYY-MM-DD

**CAPITAL REGIONAL DISTRICT**  
By their Authorized Signatory

**Print 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.



**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

### RIGHT OF FIRST REFUSAL AND OPTION TO PURCHASE

WHEREAS:

- A. The Owner is the registered owner in fee-simple of those lands and premises located within the Capital Regional District, in the Province of British Columbia, more particularly described as:

PID: 007-912-277

LOT 9, BLOCK 5, SECTION 26, VICTORIA DISTRICT, PLAN 1107  
(the "Lands")

- B. The Owner has entered into a Housing Agreement with the Capital Regional District (the "CRD") under section 483 of the *Local Government Act* and has granted to the CRD a Covenant under section 219 of the *Land Title Act* relating to certain restrictions on the use of the Land (collectively, the "Housing Agreement");
- C. Pursuant to the terms of the Housing Agreement, the Owner has agreed to use and occupy the Lands for the purposes of the Affordable Units on the Lands; and
- D. In order to ensure that the Affordable Unit is occupied and disposed of in accordance with the Housing Agreement, the Owner agrees to grant to the CRD a right of first refusal to purchase and an option to purchase the Affordable Unit on the terms and conditions set out in this Agreement.

**THIS AGREEMENT** is evidence that in consideration of the mutual promises contained in it and in consideration of the payment of \$2.00 by the CRD to the Owner, the receipt of sufficiency of which is hereby acknowledged by the Owner, the parties agree as follows:

#### **PART I – DEFINITIONS**

1. In this Agreement the following words have the following meanings:
- a. "Affordable Unit" means a Dwelling Unit designated as an affordable unit in accordance with the Housing Agreement, to be used, occupied and Disposed of in accordance with the Housing Agreement.
  - b. "Agreement" means this Agreement together with the General Instrument.
  - c. "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.
  - d. "Bona Fide Offer" means an offer to purchase the Owner's Interest in the Affordable Unit:
    - i. in writing;
    - ii. signed by an Outside Offeror;
    - iii. in a form legally enforceable against the Outside Offeror and subject to no conditions except for the CRD's Subjects;
    - iv. for a purchase price that is at or below the Maximum Price;

- v. providing that if the CRD does not exercise its right of first refusal as set forth in this Agreement, the Outside Offeror will grant to the CRD a right of first refusal and option to purchase the Lands upon the same terms and conditions as are set forth in this Agreement;
  - vi. providing that the Outside Offeror will not assign or transfer the contract for the purchase of the Affordable Unit; and
  - vii. confirming that the Outsider Offeror has read and understood the terms of this Agreement, the Housing Agreement and all other charges in favour of the CRD that are registered in the LTO against the Lands and that the Outside Offeror agrees to be bound by the owner's obligations pursuant to such charges.
- e. "Business Day" means Monday to Friday inclusive except for those excluded days declared by lawful authority as holidays, excluding any date that the LTO is not open for business.
- f. "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.
- g. "CRD's Subjects" mean the following clauses:

The obligation of the seller to complete the transaction contemplated herein is subject to the following (the "Seller's Conditions"):

- i. the seller notifying the buyer in writing, not later than 15 business days that the Capital Regional District has approved the terms of the sale of the Land to the buyer and that the Capital Regional District has decided not to exercise its right of first refusal and option to purchase the Land with respect to this transaction only; and
- ii. the Capital Regional District determining and notifying the Owner in writing no later than 15 business days that the Owner has complied with the requirements of the Housing Agreement regarding the sale, and that Capital Regional District is satisfied that the buyer is a Qualified Buyer as defined in the Housing Agreement.

The Seller's Conditions are for the sole benefit of the seller and may be satisfied by the seller by notice in writing to the buyer. If the Seller's Conditions are not satisfied on or before the date specified for their removal, this agreement will automatically be terminated, the deposit will be returned to the buyer, and neither party will have any further obligation to the other under this agreement.

- h. "Dispose" means to transfer by any method, and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release, and agree to do any of those things.
- i. "Dwelling Units" means all residential dwelling units located or to be located on the Land whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, into which ownership or right of possession or occupation of the Land may be Subdivided.

- j. "Environmental Law" means any applicable federal, provincial or municipal laws pertaining to the presence, handling, release or removal of Hazardous Substances.
- k. "General Instrument" means the Form C under the Land Title (Transfer Forms) Regulation, to which this Agreement is attached.
- l. "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.
- m. "Insured Mortgage" means a mortgage insured pursuant to the *National Housing Act*, R.S.C. 1985, c. N-11.
- n. "Interest" means the property interest of the Owner in the Affordable Unit.
- o. "LTO" means the Victoria Land Title Office or its successor.
- p. "Maximum Price" has the meaning given to it in the Housing Agreement.
- q. "Notice" means any written notice which CRD may deliver to the Owner under Section 8.
- r. "Notice Date" means the day on which the Owner is deemed by Section 41 to have received the Notice.
- s. "Outside Offeror" means a purchaser or prospective purchaser of the Affordable Unit who deals at arm's length with the vendor of the Affordable Unit.
- t. "Owner" means the Transferor described in the General Instrument and any subsequent owner of the Land or of any part into which the Land is Subdivided, and includes any person who is a registered owner in fee simple of an Affordable Unit from time to time.
- u. "Option Purchase Price" has the meaning given to it at section 12.
- v. "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.
- w. "Permitted Encumbrances" means those charges or encumbrances stated in Schedule "A" and any other encumbrances approved in writing by CRD but shall not include any mortgage or other financial encumbrance and shall not include this Agreement.
- x. "Person" means any individual, society, corporation, partnership, trustee, administrator, legal representative, Statutory Authority or other legal entity.
- y. "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.
- z. "Property" means the Affordable Unit and all Personal Property within the Affordable Unit.

- aa. "Qualified Buyer" means an individual who meets the criteria stated in Schedule "B" of the Housing Agreement registered against title to the Land.
- bb. "Subdivide" means to divide, apportion, consolidate or subdivide the Land, or the ownership or right to possession or occupation of the Land into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of "cooperative units" or "shared interests in land" as defined in the *Real Estate Act*.
- cc. "Transfer" means an instrument in a statutorily prescribed form by which the Owner transfers title to the Affordable Unit to CRD.
- dd. "Transaction" means transfer of an Affordable Unit from the Owner to CRD.

2. **Schedules.** The following Schedules are attached to and form integral parts of this Agreement:

Schedule "A" Permitted Encumbrances

## **PART II – GENERAL**

- 3. During the Term, the Owner covenants and agrees that the Owner will not Dispose of its Interest in any Affordable Unit unless such Interest is Disposed of in accordance with this Agreement and the Housing Agreement.
- 4. The Owner will not Dispose of its Interest in the Affordable Unit other than to the CRD or to an Outside Offeror pursuant to a Bona Fide Offer.
- 5. Provided that the Owner is not in breach of any of its obligations under this Agreement or under the Housing Agreement, at the request of the Owner and the Owner's sole expense, the CRD will deliver to the Owner discharges of this Agreement in registrable form for each Dwelling Unit that:
  - a. is a separate legal parcel; and
  - b. is not an Affordable Unit.

## **PART III – RIGHT OF FIRST REFUSAL**

- 6. The Owner covenants and agrees as follows:
  - a. the Owner will not sell or offer to sell the Affordable Unit for any consideration not consisting entirely of lawful money of Canada;
  - b. if the Owner receives an offer to purchase the Affordable Unit (the "Offer") which the Owner is willing to accept, then the Owner will offer to sell the Affordable Unit to the CRD on the terms that are set out in Part 5 of this Agreement, by giving to the CRD a notice in writing (the "RFR Notice") attached to a copy of the Offer. The CRD will have the exclusive right for ten (10) Business Days (the "Election Period") from the date on which the CRD receives from the Owner the RFR Notice and a copy of the Offer within which to purchase the Affordable Unit on the terms set out in Part V of this Agreement. The Owner agrees

that the CRD's Election Period to purchase the Affordable Unit will not start to run until the Owner gives to the CRD notice of the Offer;

- c. If the CRD wishes to exercise this right of first refusal, the CRD will give the Owner written notice of such exercise on or before the end of the Election Period.
- d. If the CRD does not exercise this right of first refusal with respect to a specific Offer, the CRD's rights under this right of first refusal with respect to the particular Offer will be waived, but only if the Offer is a Bona Fide Offer and only if the terms of sale between the Outside Offeror and the Owner are in strict compliance with the terms stated in the Offer, and if the Owner complies with the following requirements:
  - i. the Owner delivers to the CRD, within 10 Business Days after the delivery of the RFR Notice written proof, satisfactory to the CRD, in its sole discretion and including but not limited to the information required under Schedule B of the Housing Agreement, that the purchaser is a Qualified Buyer, and that the person agrees to be bound by all the agreements in favour of the CRD which affect the Affordable Unit, including but not limited to the Housing Agreement;
  - ii. the Owner does not remove the second part of the CRD's Subject until such time as the CRD informs the Owner that it is satisfied with the information provided pursuant to sub-section 5.d.i herein;
  - iii. at least 5 Business Days before completion of the sale pursuant to the Bona Fide Offer the Owner delivers to the CRD the following:
    - (1) written proof, satisfactory to the CRD, in its sole discretion, that the purchase price payable under the Bona Fide Offer is the Maximum Price;
    - (2) a signed Form C granting to the CRD an option to purchase and a right of first refusal to purchase the Affordable Unit (the "New Form C") on substantially the same terms as set out in this Agreement, with such amendments as the CRD may reasonably require;
    - (3) a discharge of this Agreement (the "Discharge") for execution by the CRD;
    - (4) undertakings from the solicitor or notary for the Outside Offeror (the "Legal Representative") on terms satisfactory to the CRD, including that:
      - (a) the Legal Representative will only register the Discharge if it is done concurrently with the registration of the New Form C;
      - (b) the Legal Representative will ensure that the New Form C is registered against the Affordable Unit in priority to all mortgages and other financial liens, charges and encumbrances, except for any charges in favour of the CRD;
      - (c) forthwith after registration of the New Form C, provide to the CRD copies of the Discharge and the New Form C with registration particulars endorsed thereon, and a copy of the State of Title



Certificate for the Land confirming registration of the New Form C;  
and

(5) a copy of the vendor's statement of adjustments for the Affordable Unit  
certified to be true by the Legal Representative; and

iv. upon request by the CRD, the Owner delivers to the CRD such further evidence  
as the CRD may reasonably require to confirm the purchase price of the Affordable  
Unit, and to confirm that the Outside Offeror has granted to the CRD an option to  
purchase and a right of first refusal to purchase the Affordable Unit.

#### **PART IV – GRANT OF OPTION**

7. The Owner hereby grants CRD an exclusive and irrevocable option to purchase the Property at the Option Purchase Price in accordance with Parts IV and V of this Agreement.
8. CRD may exercise the Option only if the Owner:
  - a. defaults in its obligations under the Housing Agreement; 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 Maximum Price or if the Owner was not, as of that date, a Qualified Buyer;
  - c. delivers the RFR Notice; or
  - d. defaults in its obligations under any mortgage of the Affordable Unit.
9. CRD may exercise the Option by delivering notice of exercise of the Option to the Owner (the "Notice").
10. 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 Part IV and V.

#### **PART V – PURCHASE AND SALE**

11. **Purchase and Sale** Subject to the terms and conditions of this Part V and relying on the warranties and representations herein set out, the Owner agrees to sell and CRD agrees to purchase the Property 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 Property to CRD or such other Person as CRD may designate.
12. **Option Purchase Price** Subject to adjustments as provided in this Agreement, the option to purchase price (the "Option Purchase Price") under the Option to Purchase shall be:
  - a. 95% of the Maximum Price; or
  - b. 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 Maximum Price, the amount owing under and required to discharge the mortgage or mortgages to the Approved Lender as at the Closing Date.

13. **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.
14. **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.
15. **Representations** The Owner hereby represents and warrants to, and covenants and agrees with the CRD, to transfer the Property to the CRD on the condition that as at the Closing Date that:
  - i. the Owner has not used the Affordable Unit or permitted any use of the Affordable Unit to store, manufacture, dispose of, emit, spill, leak, generate, transport, produce, process, release, discharge, landfill, treat or remediate any Hazardous Substances, including anything the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, remediation or release into the environment of which is now or at any time after the execution of this Agreement is prohibited, controlled, regulated or licensed under Environmental Laws;
  - ii. the Owner has not caused or permitted the storage, manufacture, disposal, emission, spilling, leakage, treatment, generation, transportation, production, processing, release, discharge, landfilling, treatment or remediation of any Hazardous Substances in, on, under or from the Affordable Unit;
  - iii. the Owner has at all times used the Affordable Unit in compliance with all Environmental Laws;
  - iv. the Owner will indemnify and save harmless the Regional District, and its elected and appointed officials, officers, employees and agents, from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs (including remediation costs and costs of compliance with any law, and legal fees and disbursements), expenses, fines and penalties, suffered or incurred by the CRD by reason of a breach of any representation or warranty, covenant or agreement of the Owner set forth in this Agreement. This obligation will survive the termination of this Agreement.
16. **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.
17. **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 Property, in which case neither party will have any further obligation to the other under this Part V 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.
18. **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 Property or any improvement to the Property. 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.
19. **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 of the Property 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 Part V.
20. **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.
21. **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.
22. **Closing** The Owner and CRD will complete the Transaction on the Closing Date at the offices of CRD or its lawyers.
23. **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. if required, 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 statutory declaration of the Owner that the Owner is a resident of Canada within the meaning of the Income Tax Act (Canada);
  - e. 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
  - f. 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 as adjusted under Section 21.
24. **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 21.
25. **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.
26. **Reimbursement** If CRD waives payment on the Closing Date of the amount referred to in Section 23.f., 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.
27. **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.

## PART VI – INTERPRETATION

28. **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.
29. **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.
30. **References** In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.

31. **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.
32. **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.
33. **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.
34. **Statute.** 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.
35. **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.

## PART VII – MISCELLANEOUS

36. **CRD Not Obligated to Exercise Right of First Refusal or Option** The Owner acknowledges and agrees that the CRD is under no obligation to exercise the rights granted under this Agreement.
37. **Duration of Option and Right of First Refusal** The option to purchase and right of first refusal hereby granted and the right of first refusal granted by this Agreement are effective until the date that is 80 years less a day after the date on which Form C referring to this Agreement is deposited for registration in the LTO, provided that if the perpetuity period for the Agreement as specified in the *Perpetuity Act* is increased or decreased in length than the term of this Agreement will be increased or decreased accordingly.
38. **Powers Unaffected** This Agreement does not:
  - a. affect or limit the discretion, rights, duties or powers of the CRD under any enactment or at common law, including in relation to the use or subdivision of the Land;
  - b. impose on the CRD any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;

- c. affect or limit any enactment relating to the use or subdivision of the Land; or
  - d. relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.
39. **Agreement for Benefit of CRD Only** The Owner and the CRD agree that;
- a. this agreement is entered into only for the benefit of the CRD;
  - b. this agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Property, the Land or the building or any portion thereof, including any Affordable Unit;
  - c. the CRD may at any time execute a release and discharge of this agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
40. **No Public Law Duty** Where the CRD is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the CRD is under no public law duty of fairness or natural justice in that regard and agrees that the CRD may do any of those things in the same manner as if it were a private party and not a public body.
41. **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.
42. **Fees** Each of the Owner and CRD will pay its own legal fees.
43. **Costs** Unless otherwise specified in this Agreement, the Owner will comply with all the requirements of this Agreement at its own cost and expense and will pay to the CRD, on request, all reasonable costs or expenses it incurs in connection with this Agreement.
44. **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.
45. **Further Assurance** Upon request by the CRD, the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the CRD to give effect to this Agreement.
46. **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.
47. **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.

- 48. **Amendment** This Agreement may only be amended by written agreement of the parties.
- 49. **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:**

HOUSING AGREEMENT in favour of the Capital Regional District  
HOUSING AGREEMENT in favour of the District of Saanich

**Charges, Liens and Interests:**

S.219 COVENANT in favour of the Capital Regional District  
RENT CHARGE in favour of the Capital Regional District  
S.219 COVENANT in favour of the District of Saanich