

Municipality of North Cowichan

Regular Council

AGENDA

Wednesday, November 4, 2020, 1:30 p.m.
Electronically

Pages

1. CALL TO ORDER

This meeting, though electronic, is open to the public and all representations to Council form part of the public record. At this time, due to the COVID-19 Pandemic, public access to Council Chambers is not permitted, however, this meeting may be viewed on the District's lived stream webcast at www.northcowichan.ca/agendas.

2. APPROVAL OF AGENDA

2.1. Consent Agenda

5 - 20

Purpose: To adopt all recommendations appearing on the Consent Agenda in one motion. Any item may be moved out at the request of any Council member for discussion or debate, before the agenda is approved. Items removed from the Consent Agenda will be placed under New Business.

Recommendation:

That the Consent Agenda be approved.

2.2. Regular Agenda

Recommendation:

That Council adopt the agenda, as circulated [or as amended].

3. ADOPTION OF MINUTES

3.1. Regular Council and Public Hearings meeting held October 21, 2020 for adoption

21 - 27

Recommendation:

That Council adopt the minutes of the Regular Council and Public Hearings meeting held October 21, 2020.

3.2. Special Council meeting held October 26, 2020 for adoption

28 - 28

Recommendation:

That Council adopt the minutes from the Special Council meeting held October 26, 2020.

4. MAYOR'S REPORT

5. DELEGATIONS AND PRESENTATIONS

5.1. Cowichan Neighbourhood House Association

29 - 30

Purpose: To consider a formal proposal for financial assistance from North Cowichan to purchase a permanent place to house the Neighbourhood House and to go over the location and funding options available.

6. PUBLIC INPUT

Public Input submissions sent to Agenda@northcowichan.ca by 5:00 p.m. on November 3 will be circulated to Council by way of an Addendum Agenda at 6:00 p.m. on November 3, and can be viewed by visiting www.northcowichan.ca/agendas.

7. BYLAWS

7.1. Temporary Borrowing Bylaw (RCMP Facility) No. 3802 for first 3 readings

31 - 33

Purpose: To introduce Temporary Borrowing Bylaw (RCMP Facility) 3802 to authorize funds to be borrowed for constructing the RCMP facility through the Municipal Finance Authority.

Recommendation:

That Council give first, second and third readings to Temporary Borrowing Bylaw (RCMP Facility) No. 3802, 2020.

7.2. Housing Agreement Bylaw for Affordable Housing at Willow Street and Sherman Road

34 - 124

Purpose: To introduce the Housing Agreement Bylaw and leases for the planned affordable housing projects at 9800 Willow Street and 3191 Sherman Road.

Recommendation:

That Council gives first, second and third readings to Housing Agreement Bylaw 2020, No. 3805.

8. REPORTS

8.1. Third Quarter Financial Report

125 - 150

Purpose: The purpose of this report is to provide the General Fund Statement of Operation and a Capital update for the period ending September 30, 2020, and the Reserve Funds balance as of September 30, 2020.

Recommendation:

That Council accept the November 4, 2020 3rd Quarter Financial Report prepared by the Manager of Budget and Infrastructure.

9. NOTICES OF MOTIONS

9.1. Notice of Motion submitted by Councillor Justice regarding Biodiversity Protection

Purpose: To introduce Councillor Justice's motion:

Whereas it is council's intention to develop a biodiversity protection strategy in 2021;

And Whereas biodiversity protection strategies developed in some neighbouring communities have land use components such as preservation of habitat areas and ensuring connectivity between habitat areas;

Now therefore be it resolved that Council directs that our planning staff communicate to the OCP consultants (Modus) that protection of our rare ecosystems and the species that inhabit them is a priority of Council and that this should be a strong consideration in the formulation of our OCP's land use policy.

which he intends to move so that it may be debated and considered by Council at the November 18, 2020 regular meeting.

10. UNFINISHED AND POSTPONED BUSINESS

11. NEW BUSINESS

12. QUESTION PERIOD

A 10-minute recess to be provided to give the public an opportunity to submit their questions by email to QP@northcowichan.ca regarding the business discussed at this meeting. Questions will be read out in the order they are received.

13. CLOSED SESSION

Recommendation:

That Council close the November 4, 2020 Regular Council meeting at ___ p.m. to the public on the basis of the following sections of the *Community Charter*:

- 90(1)(c) - labour relations or other employee relations;
- 90(1)(k) - negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public; and
- 90(1)(m) - a matter that, under another enactment, that being section 16(1)(a)(iii) of the *Freedom of Information and Protection of Privacy Act* related to intergovernmental relations or negotiations with an aboriginal government, is such that the public may be excluded from the meeting.

13.1. Minutes from the October 7, 2020 closed meeting and the October 8, 2020 Special Council closed meeting for adoption

13.2. Closed under section 90(1)(k) provision of a proposed service, and (m) FOIPPA s. 16 - intergovernmental relations

- 13.3. Closed under section 90(1)(k) provision of a proposed service, and (m) FOIPPA s.16 relations with an aboriginal government
- 13.4. Closed under section 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government
- 13.5. Closed under section 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government
- 13.6. Closed under section 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government
- 13.7. Closed under section 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government
- 13.8. Closed under section 90(1)(k) provision of a proposed service, and (m) FOIPPA s. 16 - relations with an aboriginal government
- 13.9. Closed under section 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government
- 13.10. Closed under section 90(1)(c) personnel matter

14. RISE AND REPORT

15. ADJOURNMENT

Municipality of North Cowichan

Consent Agenda

November 4, 2020

CONSENT AGENDA groups correspondence received by Council, which may require a response or action, into one agenda item called the consent agenda (Roberts Rules of Order calls it a “consent calendar”). This allows

Council to publicly acknowledge receipt of those items in a unanimously agreed to vote instead of filing multiple motions. Any item may be moved out of the consent agenda at the request of any Council member, before approval of the agenda. Items removed from the Consent Agenda will be placed under New Business.

Pages

1. Correspondence Received

The following correspondence is received for information purposes only.

| | | |
|------|--|----|
| 1.1. | Email from a Crofton resident, re: Fireworks in Crofton | 1 |
| 1.2. | Email from Endangered Ecosystem Alliance, re: BC Old-Growth Forests | 2 |
| 1.3. | Email from Maple Bay resident re: OCP & Community Outreach | 7 |
| 1.4. | Email re: 2020 Report Measuring the benefits of BC's Community Forests | 9 |
| 1.5. | Email from a North Cowichan resident, re: UN Declaration of the Rights of Indigenous Peoples | 14 |
| 1.6. | Email re: Support for Forest Preservation | 15 |

Tricia Mayea

From: [REDACTED] FOIPPA s. 22(1)
Sent: Monday, October 26, 2020 5:45 AM
To: Council
Cc: Martin Drakeley
Subject: Crofton Fireworks

Good morning,

Well it's been quite a weekend of fireworks in Crofton, the annual two week event! I am wondering if we can address this matter with some education and perhaps an evening visit or two by bylaw, it's pretty easy to see and hear as was the case Saturday night when the boom cannons hit for hours on end.

I'm suggesting some Educational messaging on the abundance of local Facebook pages as well. And although you have no jurisdiction over it the large fireworks for sale stand in the area isn't helping matters either. There should be a mechanism between the two that only allows sales once a permit is shown, however I'll write to the MP regarding that aspect.

I'm not sure why this is allowed to continue each year, it is effecting many locals and their animals and there is a means to reduce the volume and duration. Let's use our bylaws and yes god forbid ticketing to ensure everyone's peace and quiet can be maintained. Perhaps had ticketing taken place some years ago we wouldn't have them going for two weeks here in 2020. Isn't the required permit only for three specific days?

thank you

[REDACTED] FOIPPA s. 22(1)

Tricia Mayea

From: [REDACTED] FOIPPA s. 22(1)
Sent: Saturday, October 24, 2020 10:02 AM
To: [REDACTED] FOIPPA s.22(1)
Subject: Fwd: BC Old-Growth Forests this Election; Conservation Financing needed

This proposed policy spills in to the fate of North Cowichan's precious municipal forest reserve. No logging of any old growth.

Begin forwarded message:

From: Endangered Ecosystems Alliance
<endangerecosystemsalliance@gmail.com>
Subject: BC Old-Growth Forests this Election; Conservation Financing needed
Date: October 23, 2020 at 9:13:00 PM PDT
To: [REDACTED] FOIPPA s. 22(1)
Reply-To: <endangerecosystemsalliance@gmail.com>

Vote for BC's Old-Growth Forests and Native Ecosystems!



For those of you who are British Columbians, remember to VOTE tomorrow with the fate of Earth in your mind!

Here is the Elections BC website on where and how to vote: <https://elections.bc.ca>

Here is an article in The Narwhal about the BC NDP government's track record on numerous environmental issues in BC including their overwhelming failure to protect old-growth forests: <https://thenarwhal.ca/bc-election-ndp-environmental-promises/>

There has been a LOT going on these past few weeks at the Endangered Ecosystems Alliance. Read some of our media releases:

Recently, First Nations, the Endangered Ecosystems Alliance, scientists, conservationists and politicians called on the BC and federal governments to finance the protection of old-growth forests in their budgets and recovery plans. Provincial funding for Indigenous Protected Areas and First Nations land use plans to protect old-growth must accompany government-to-government negotiations about old-growth policies. Read our media release [HERE](#)

Here is our media release commending the Union of BC Indian Chiefs for their old-growth resolution calling for all 14 public panel recommendations to be implemented by the provincial government (the BC NDP government under pressure during the election campaign has now committed to implement all recommendations, but without committing to the critical funding for First Nations protected areas and land use plans, ie. it is a hollow promise), logging moratoria on the highest risk old-growth in consultation with First Nations, conservation financing for First Nations Indigenous Protected and Conserved Areas (IPCA's) and land use plans to protect old-growth forests, and funding to purchase and protect private lands. See [HERE](#)

And for those of you who missed it here is our press release from a few weeks back about the BC NDP government's grossly deficient policy direction on old-growth forests. See [HERE](#)

Here is the EEA's Ken Wu speaking about the BC government's old-growth policies several weeks ago:

<https://www.youtube.com/watch?v=WGSVVyoTH8Y>

Vancouver Island's endangered old-growth forests are in the international spotlight as an amazing film by Canadian digital artist and UVic professor Kelly Richardson goes on exhibit at the UK's largest digital media arts festival today - See [HERE](#)

Lastly, be sure to SEND a MESSAGE to the elected decision-makers to protect BC's old-growth forests - go [HERE](#)

Watch for upcoming calls for action to support Indigenous Protected Areas, to support Alberta parks against closure and elimination, and to protect the Alberta Rockies and foothills against open-pit coal mining!

And if you support what we do, please support us with a donation of any amount at: <https://www.endangeredecosystemsalliance.org/donate>

With gratitude!

For the Wild,

Ken, Celina, Katie and Richa
Endangered Ecosystems Alliance





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Canada

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Tricia Mayea

From: [REDACTED] [REDACTED] FOIPPA s.22(1)
Sent: Tuesday, October 27, 2020 10:27 AM
To: Council
Cc: Megan Jordan
Subject: OCP & Community Outreach

I was one of the 5% who responded to the OCP survey. The participation level was/is abhorrent.

I need to emphasize that in no way should you consider or give any weight to a survey where only 5% of the community have responded.

The results ARE NOT STATISTICALLY VALID, can be considered extremely biased and may be weighted in favour of a particular type of folks responding with and overly weighted emphasis on environment.

No amount of pages and pages of agenda summary can give weight to the results, they are bogus. 5% response is totally useless information. You and I know it so don't try to sugar coat what is presented. Toss it aside.

Everyone cares about the environment. The survey was poorly designed in that it was pretty hard to express or truly rank importance and priorities. For instance how would one rank taking care of our homeless, mentally ill and addicted as compared to environmental protection: you wouldn't. Because anyone with any sort of humanity and compassion would rank people before environment, yet look at where "housing affordability" ranked. This is because those completing the survey were predominantly well off and all their basic life's need are taking care of and they have luxury money with which to enjoy the other values of life. Unless one ranks values with personal well being (money, wealth, status), then you do not have a valid survey. And you need to have done the survey using proper statistically valid methodologies. Don't just say "well it's a helpful guide", it is not!

Anyone with a head on their shoulders knows, there are three broad areas of concern and interests that we need to accommodate

Environmental Interests/Concerns

Social Well Being/Concerns

Economic/Concerns

The challenge is always to find the balance between those three areas of interest. And at any one point in time, depending upon the details, there will always be a push and pulling by folks to support which takes priority on any given day.

Good gravy, **only 50% said economy and jobs were very important**....how can that possibly be! Without a job like how do you live? How do you put food on the table, provide shelter, take care of your health, get your teeth fixed, buy glasses so you can see, buy hearing aids so you can hear. This shows again the bias of the survey results. So folks who are retired (like me) and hold professional jobs already, say "oh ya, I care about this and that when in fact they have the luxury to take that position....are we supposed to have an inclusive community or just one for the wealthy or well off? what you should ask is what do the less fortunate care about?

We need balance and this survey fails big time.

 FOIPPA s.22(1)

Maple Bay

Tricia Mayea

From: Info
Sent: Friday, October 23, 2020 9:46 AM
To: Council
Cc: Info
Subject: FW: an example of indicators that could be used in determining the future of the municipal forest FW: BCCFA 2020 Indicators Report Released

From: [REDACTED] FOIPPA s.22(1)
Sent: Thursday, October 22, 2020 2:08 PM
To: Al Siebring <mayor@northcowichan.ca>; Info <Info@northcowichan.ca>
Cc: Shaun Mason <Shaun.Mason@northcowichan.ca>; Arcese, Peter <peter.arcese@ubc.ca>; Susan Mulkey <smulkey@bccfa.ca>
Subject: an example of indicators that could be used in determining the future of the municipal forest FW: BCCFA 2020 Indicators Report Released

Dear Mayor and Council – this is to bring to your attention the 2020 report measuring the benefits of BC’s community forests.

I suggest strongly that this report be used to assist in determining the future management of the Municipal Forest Reserve. I suggest that the Forest Advisory Committee and the Community Advisory Group (and the Environment Advisory Committee, if formed) be informed of this report and its indicators.

For your consideration

Yours truly

[REDACTED] FOIPPA s. 22(1)

From: BC Community Forest Association <smulkey@bccfa.ca>
Sent: October 22, 2020 8:43 AM
To: [REDACTED] FOIPPA s.22(1)
Subject: BCCFA 2020 Indicators Report Released

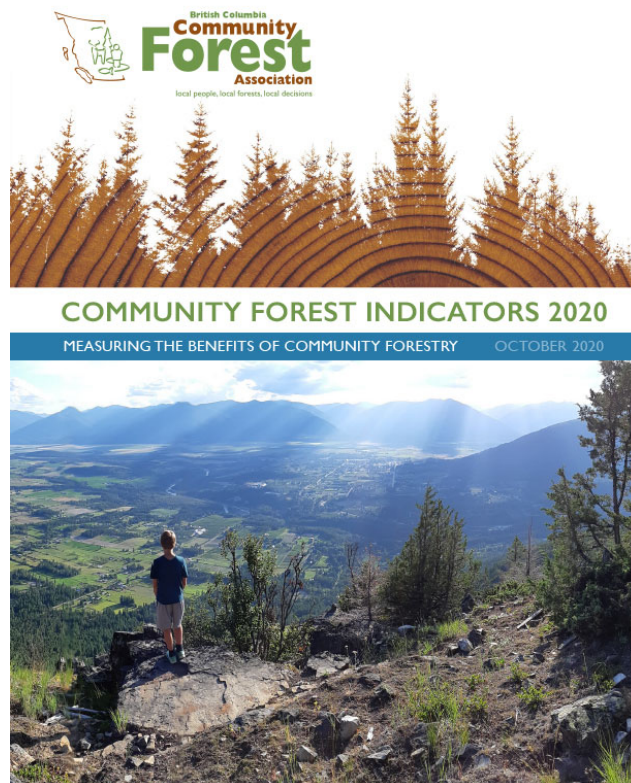
[View this email in your browser](#)



Community forests - making BC's forests and communities more resilient

2020 Report Measuring the Benefits of BC's Community Forests Released

[View the full report](#)



We are pleased to share the **2020 Community Forest Indicators Report**. The Indicators Report, now in its 6th year, contains analysis of 18 different areas where community forests deliver economic, social, cultural, and environmental benefits to their rural and Indigenous communities and to the Province. Along with the quantitative information, the report is filled with stories and photos that further demonstrate the importance of community forests to the sustainable future of these communities and the land that surrounds them.

We would like to thank everyone who devoted time and effort to respond to the Community Forest Indicators Survey. This project would not be possible without their participation.

“Community forests are showing British Columbians that forest management can be much more than timber harvesting and the economic bottom line. By supporting the success of existing community forests and by investing in the creation of more and larger community forests, the Province can solve multiple problems. The time is now to empower communities to become true partners in modern, collaborative, and sustainable land management,” said Jennifer Gunter, Executive Director of the BCCFA.

Thirty-two community forests participated in the 2019/2020 survey, providing data from their last reporting year, specific to their operations. This sample represents 73 percent of the operating community forests in the BCCFA. Most are small rural communities, Indigenous and non-Indigenous, with an average population of 3,965.

Community forests are creating more jobs in rural communities. This year’s results show that community forests are creating 85% more jobs/ m³ than the industry average in their forestry, logging and support services. They operate in sensitive areas and are reliably supplying logs to both major processing facilities and small manufacturers. They are generating economic activity, while contributing to local projects.

With community forests located primarily in the land surrounding communities, they are acting on the urgent need to manage these areas to adapt to climate change and mitigate the risk of catastrophic wildfire. This year’s results show a tripling of the community forests’ own investments in wildfire management - evidence of the leadership role that community

forests are playing. They are managing for ecosystem resilience and investing in forest stewardship, above and beyond legal requirements.

And YES, the BCCFA website is now back online!!!!

Have a look at how the site is organized and how the important messages of the community forestry are more accessible. We will continue to tweak the site and we will be adding the much promised Members Only section soon.

[Press Release](#)

[Link to the report](#)



[Download the 2020 report at bccfa.ca](#)



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Tricia Mayea

From: [REDACTED] FOIPPA s. 22(1)
Sent: Thursday, October 29, 2020 8:03 AM
To: Al Siebring; Christopher Justice; Debra Toporowski; Kate Marsh; Rob Douglas; Rosalie Sawrie; Tek Manhas; Agenda
Cc: [REDACTED] FOIPPA s. 22(1)
Subject: Interesting....

I noticed this post on Facebook this morning and thought I'd see if this is something North Cowichan is giving consideration to?

Here is the post (without pics):

Yesterday Courtenay Council voted unanimously to adopt the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) as our framework for reconciliation with the K'ómoks First Nation

. Many thanks to K'ómoks Hegus (Chief)

Nicole Rempel

for her feedback and support.

UNDRIP will now be reflected in our new Official Community Plan and in all other planning and decision making.

Additionally the City commits to educating staff about UNDRIP and the history and culture of the K'ómoks First Nation.

For my local government friends - I was inspired by

District of Ucluelet

's work on UNDRIP and borrowed from their resolution. Please feel free to do the same - the full text of my resolutions are below, please borrow 😊

1. Whereas, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the United Nations General Assembly in 2007;

Whereas, the Truth and Reconciliation Commission listed in 2015 as the first principle for reconciliation that the UNDRIP, "is the framework for reconciliation at all levels and across all sectors of Canadian Society";

Whereas, UNDRIP was officially adopted by the Government of Canada in 2016;

Whereas, the Government of British Columbia passed the Declaration on the Rights of Indigenous Peoples Act unanimously in November 2019;

And whereas, the City of Courtenay has identified "Build[ing] on our good relations with K'ómoks First Nation and practic[ing] Reconciliation" as a strategic priority for 2019-2022;

Be it resolved that the City of Courtenay adopt the United Nations Declaration on the Rights of Indigenous Peoples as its framework for indigenous reconciliation.

2. Be it resolved that the City of Courtenay will incorporate the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into the development of its Official Community Plan (OCP);

That the City will work with the K'ómoks First Nation (KFN) to incorporate UNDRIP into its planning and decision making; and further,

That the City will work with the KFN to develop a program to educate City staff about UNDRIP and the history and culture of the KFN.

[REDACTED] FOIPPA s. 22(1)
North Cowichan

From: [REDACTED] FOIPPA s. 22(1)
Sent: Saturday, October 24, 2020 8:53 AM
To: Al Siebring; Christopher Justice; Debra Toporowski; Kate Marsh; Tek Manhas; Rob Douglas; Rosalie Sawrie; Council; Ted Swabey
Subject: New posting at sixmountains.ca

"Public sends North Cowichan powerful message of support for forest preservation"

'Survey results could guide council direction for two decades'

The public has identified green spaces and recreation as easily the most important attributes of North Cowichan, according to a survey designed to guide the municipality over the next 20 years.

A report by the consultant, MODUS, says that 1,201 individuals participated in the “vision and goals survey,” part of the municipality’s renewal of its Official Community Plan. The survey was mostly completed on-line from August 14 to September 17.

Referring to an overarching theme in the responses, MODUS concludes: “The preservation of natural areas and resources was the most frequently mentioned topic.

“This relates to protecting wildlife habitats, limiting extraction of natural resources and implementing strategies to mitigate the impacts of climate change.”

Asked what they love most about North Cowichan, a total of 624 individuals named “natural green spaces and surroundings, specifically the mountains, rivers, forests and ocean.” Another 304 identified “access to outdoors for recreational activities such as hiking, biking, kayaking and swimming.”

For full story, visit: <https://www.sixmountains.ca/public-sends-north-cowichan-powerfu>

Municipality of North Cowichan Council - Regular and Public Hearings MINUTES

**October 21, 2020, 1:30 p.m.
Electronically**

| | |
|-----------------|---|
| Members Present | Mayor Al Siebring Councillor Christopher Justice Councillor Tek Manhas Councillor Kate Marsh Councillor Rosalie Sawrie Councillor Debra Toporowski |
| Members Absent | Councillor Rob Douglas |
| Staff Present | Ted Swabey, Chief Administrative Officer (CAO) Sarah Nixon, Deputy Chief Administrative Officer (D/CAO) Mark Frame, General Manager, Financial and Protective Services Dave Conway, Director, Engineering Don Stewart, Director, Parks and Recreation George Farkas, Acting, Director of Human Resources Jason Birch, Chief Information Officer Megan Jordan, Manager, Communications and Public Engagement Clay Reitsma, Senior Manager, Engineering Dave Preikshot, Senior Environmental Specialist Glenn Morris, Development Planning Coordinator Chris Hutton, Community Planning Coordinator Michelle Martineau, Corporate Officer Tricia Mayea, Deputy Corporate Officer |

1. CALL TO ORDER

There being a quorum present, Mayor Siebring called the meeting to order at 1:30 p.m.

2. APPROVAL OF AGENDA

IT WAS MOVED AND SECONDED:

That Council adopt the agenda, as circulated.

CARRIED

3. CONSENT AGENDA

IT WAS MOVED AND SECONDED:

That the Consent Agenda be approved.

CARRIED

3.1.1 Request for a letter of support from the Oak Park Heritage Preservation Society

That the Mayor be authorized to write a letter of support for the Oak Park Heritage Preservation Society to include in their application for a British Columbia Community Economic Recovery Infrastructure Program (CERIP) grant to preserve and restore Elkington house at 1241 Maple Bay Road.

ADOPTED ON CONSENT

3.1.2 Request for a Letter of Support from The Raptors

That the Mayor be authorized to write a letter of support for The Raptors to include in their application for a British Columbia Community Economic Recovery Infrastructure Program (CERIP) grant to help run programs year round and to open the parrot area.

ADOPTED ON CONSENT

4. ADOPTION OF MINUTES

4.1 Regular Council meeting held October 7, 2020 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt the minutes of the Regular Council meeting held October 7, 2020.

CARRIED

4.2 Special Council meeting held October 8, 2020 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt the minutes of the Special Council meeting held October 8, 2020.

CARRIED

5. MAYOR'S REPORT

The Mayor gave a verbal report on meetings and activities he recently attended.

6. PRESENTATION

Councillor Toporowski declared a conflict on the next item of business stating the reason being her role as a Councillor on Cowichan Tribes Council and she left the meeting at 1:36 p.m.

6.1 Joint Utility Board Sewage Treatment Plant Outfall Relocation Project: Project Update

The Senior Manager, Engineering provided an update on the joint utility board sewage treatment plant outfall relocation project that included: outfall location and proposed pipe routes; continued First Nations consultation, and information on stakeholder and public engagement process. A copy of the PowerPoint Presentation is on file at the Municipal Hall.

7. PUBLIC INPUT

Council received 3 submissions via email prior to the meeting regarding items 9.1, 9.2, 9.4, 12.1 and 12.2. Submissions were forwarded to Council prior to the meeting.

Councillor Toporowski returned to the meeting at 2:25 p.m.

8. BYLAWS

8.1 Council Remuneration Amendment Bylaw No. 3780 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt Council Remuneration Amendment Bylaw 2020, No. 3780. CARRIED

8.2 Respectful Spaces Bylaw No. 3796 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt Respectful Spaces Bylaw No. 3796, 2020.

CARRIED

9. REPORTS

9.1 Temporary Use Permit Amendment No. TUP00022 (2 - 6380 Lakes Road)

IT WAS MOVED AND SECONDED:

That the following motion:

That Temporary Use Permit Amendment Application TUP00022 (#2-6380 Lakes Road) to extend the term of Temporary Use Permit TUP00011 to October 31, 2021, be approved on the condition that the applicant obtains an occupancy permit for an assembly use by January 31, 2021, and on the condition that the number of weddings in that period be limited to four.

be amended to replace the word "four" at the end of the sentence with the word "six".

(OPPOSED: Justice, Marsh, Toporowski)

DEFEATED

IT WAS MOVED AND SECONDED:

That Temporary Use Permit Amendment Application TUP00022 (#2-6380 Lakes Road) to extend the term of Temporary Use Permit TUP00011 to October 31, 2021, be approved on the condition that the applicant obtains an occupancy permit for an assembly use by January 31, 2021, and on the condition that the number of weddings in that period be limited to four.

(OPPOSED: Marsh, Toporowski)

CARRIED

The meeting recessed by unanimous consent at 3:34 p.m. and reconvened at 3:42 p.m.

Councillor Marsh left the meeting at 3:56 p.m. and returned at 3:59 p.m.

9.2 Climate Action and Energy Plan (CAEP) Remodeling next steps

IT WAS MOVED AND SECONDED:

That Council direct staff to proceed with modelling the costs and benefits of various greenhouse gas emissions reduction initiatives identified to-date and report back to Council with the results.

CARRIED

9.3 Committee of the Whole Recommendation – Diversity and Inclusion

IT WAS MOVED AND SECONDED:

That staff be directed to include an update on diversity and inclusion in the Council Strategic Plan quarterly reporting.

CARRIED

9.4 Committee of the Whole Recommendation – Public Input on Agenda

IT WAS MOVED AND SECONDED:

That Council will only take formal public input on agenda items up until 5:00 p.m. on the day before the meeting for the duration of COVID related meetings.

CARRIED

IT WAS MOVED AND SECONDED:

That Council continue the present public input practice - that Council will be assumed to have read the public input and that there is no need for a staff summary during the public input portion of the agenda. CARRIED

IT WAS MOVED AND SECONDED:

That staff be directed to post as an addendum to the agenda, an aggregate of the Public Input that is received, by 6:00 p.m. the day before the meeting. CARRIED

IT WAS MOVED AND SECONDED:

That the meeting be extended until 8:00 p.m. CARRIED

10. NOTICES OF MOTIONS

None.

11. UNFINISHED AND POSTPONED BUSINESS

None.

12. NEW BUSINESS

12.1 Request to Reinstate the Environmental Advisory Committee

IT WAS MOVED AND SECONDED:

That North Cowichan reinstate its Environmental Advisory Committee as an advisory body to serve at the will of Council and to work with staff and help Council 1) develop and integrate practical CAEP policies and programs through both the pending CAEP and OCP processes, and 2) to provide council with advise on other environmental issues, such as natural areas, watershed protection, air quality, climate adaptation, as directed by Council. CARRIED

12.2 Climate Action and Energy Plan Targets and Alignment with the Official Community Plan

IT WAS MOVED AND SECONDED:

That the following motion:

WHEREAS the Intergovernmental Panel on Climate Change has concluded that it is imperative that we achieve net zero emissions by 2050 and the BC provincial government's climate plan also has as a target the achieving of net zero by 2050;

AND WHEREAS Council has been assured that further adjustments or refinements to the Climate Action and Energy Plan ("CAEP") project (and report) will not add significantly to our understanding of how to reduce our emissions but may rather delay the Official Community Plan ("OCP") process (where those CAEP-derived understandings will be translated into policy);

AND WHEREAS going forward, it is the intention of staff to work with both Sustainability Solutions Group (SSG) and Modus to ensure that there is harmony or alignment between the CAEP derived understandings and the OCP policies, and to use the new CAEP modelling tool to ensure that OCP policies, including growth

management scenarios, will result in the meeting of our emissions reductions target;

NOW THEREFORE Council directs, subject to the completion of the CAEP, that the 2050 emissions reductions target of 80% be changed to a target of achieving net zero by 2050 and that subsequent modelling for the OCP aspires to develop policy which achieves net zero by 2050.

be amended to replace the last paragraph with:

'NOW THEREFORE Council directs, subject to the completion of the CAEP, that the 2050 emissions reductions target of 80% be changed to a target of achieving net zero by 2050, and that this be reflected in the development of policy in the OCP.'

CARRIED

IT WAS MOVED AND SECONDED:

WHEREAS the Intergovernmental Panel on Climate Change has concluded that it is imperative that we achieve net zero emissions by 2050 and the BC provincial government's climate plan also has as a target the achieving of net zero by 2050;

AND WHEREAS Council has been assured that further adjustments or refinements to the Climate Action and Energy Plan ("CAEP") project (and report) will not add significantly to our understanding of how to reduce our emissions but may rather delay the Official Community Plan ("OCP") process (where those CAEP-derived understandings will be translated into policy);

AND WHEREAS going forward, it is the intention of staff to work with both Sustainability Solutions Group (SSG) and Modus to ensure that there is harmony or alignment between the CAEP derived understandings and the OCP policies, and to use the new CAEP modelling tool to ensure that OCP policies, including growth management scenarios, will result in the meeting of our emissions reductions target;

NOW THEREFORE Council directs, subject to the completion of the CAEP, that the 2050 emissions reductions target of 80% be changed to a target of achieving net zero by 2050, and that this be reflected in the development of policy in the OCP. CARRIED

12.3 Letter from Jennifer Woike, Farmer Bens Eggs

IT WAS MOVED AND SECONDED:

That the Mayor be authorized to write a letter to Jennifer Woike, Farmer Bens Eggs, in response to the letter dated August 24, 2020, to provide some of the actions that Council has taken to support new and local businesses, and to support the growth and development in North Cowichan. CARRIED

13. ADJOURN COUNCIL MEETING TO RECONVENE AT 6:00 P.M.

There being no objection, the Mayor adjourned the meeting at 5:15 p.m. to reconvene at 6:00 p.m.

The meeting was reconvened at 6:00 p.m.

14. PUBLIC HEARING AT 6:00 P.M.

14.1 Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), 2020, No. 3797

Mayor Siebring outlined the public hearing process and called the public hearing to order at 6:01 p.m. for Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), 2020, No. 3797.

The Corporate Officer provided a summary of the correspondence that was received prior to the hearing, noting the following two submissions that were received in support of the amendment:

- Karen McClinchey, in support of limiting cannabis production in the ALR to soil based production only, and
- Jaye Bryan, in support of soil-based food production, and food security for the current population and future generations

Council then received a presentation from Chris Hutton, Community Planning Coordinator introducing the proposed amendment.

The Mayor called for submissions from members of the public for a first time, waiting for 30 seconds to allow for people to call in through the teleconference number provided on the screen. No one wished to speak to the application.

The Mayor called for submissions from the public for a second and final time. No one wished to speak to the application.

Mayor Siebring closed the public hearing for Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), 2020, No. 3797 at 6:16 p.m.

The regular meeting resumed at 6:16 p.m.

15. PUBLIC HEARING BYLAW FOR CONSIDERATION

15.1 Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), 2020, No. 3797

IT WAS MOVED AND SECONDED:

That Council give third reading to "Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), 2020" No. 3797. CARRIED

16. QUESTION PERIOD

Mayor Siebring called for a recess at 6:17 p.m. to allow viewers to submit questions via email on the matters discussed during the meeting. One submission was received when the meeting reconvened at 6:27 p.m. As it was not in relation to a matter discussed during the meeting, the Mayor stated that it would not be read out and advised the sender to submit a freedom of information request.

17. CLOSED SESSION

None.

18. RISE AND REPORT

None.

19. ADJOURNMENT

IT WAS MOVED AND SECONDED:

That Council adjourn the meeting at 6:20 p.m.

CARRIED

Certified by Corporate Officer

Signed by Mayor

Municipality of North Cowichan

Special Council

MINUTES

October 26, 2020, 9:00 a.m.
Electronically

| | |
|-----------------|--|
| Members Present | Mayor Al Siebring Councillor Christopher Justice Councillor Tek Manhas Councillor Kate Marsh Councillor Rosalie Sawrie Councillor Debra Toporowski |
| Absent | Councillor Rob Douglas |
| Staff Present | Ted Swabey, Chief Administrative Officer (CAO) Sarah Nixon, Deputy Chief Administrative Officer (D/CAO) Megan Jordan, Manager, Communications and Public Engagement Michelle Martineau, Corporate Officer |

1. CALL TO ORDER

There being a quorum present, Mayor Siebring called the meeting to order at 9:02 a.m.

2. APPROVAL OF AGENDA

IT WAS MOVED AND SECONDED:

That Council approve the agenda as circulated.

CARRIED

3. BUSINESS

3.1 Temporary Use Permit Amendment No. TUP00022 (2 – 6380 Lake Road)

IT WAS MOVED AND SECONDED:

That Council reconsider their October 21st decision *"That Temporary Use Permit Amendment Application TUP00022 (#2-6380 Lakes Road) to extend the term of Temporary Use Permit TUP00011 to October 31, 2021, be approved on the condition that the applicant obtains an occupancy permit for an assembly use by January 31, 2021 and on the condition that the number of weddings during that period be limited to four"* at the November 18, 2020 regular meeting. (OPPOSED: Justice, Marsh, Sawrie, Toporowski)

DEFEATED

4. ADJOURNMENT

Council adjourned the Special Council meeting at 9:27 a.m.

Certified by Corporate Officer

Signed by Mayor

Cowichan Neighbourhood House Presentation

A. BACKGROUND

In 1997, Cowichan Neighbourhood House Association (CNHA) moved into the Old Chemainus Fire Hall. The Municipality of North Cowichan owned the building and we rented it for \$1/month. After the old Fire Hall was slated for demolition for the new Library, the CNHA moved into the current location at 9806 Willow Street and put in about \$50,000 of renovations. The building is owned by the Whittomes family, Cowichan Estates.

In 2017, North Cowichan accepted a joint expression of interest by Harvest House Food Bank and the CNHA to occupy the ground floor of the new affordable housing building to be constructed on the site of the old Fire Hall by the Community Land Trust Foundation of BC. However, in 2019, we were informed that the Land Trust could no longer provide the public space.

At present, we are thankful to receive a yearly grant of \$30,000 from North Cowichan, which covers most of our rental costs. Our lease expires in December ***and the building will be going up for sale***. Thus the urgency. The owners have appraised the building for estate purposes at \$410,000.

We are looking into different locations for a permanent home, but one promising option is to purchase the current building. We are looking into renewing our lease until December 31 2021 with an option to purchase. The option would only provide a window of 8 months to finalize.

B. OPTIONS:

We are considering various options including but not limited to the following:

- 1) Straight purchase of the building with a down-payment and mortgage. Funding would be from grants (e.g., BC Assoc of Neighbourhood Houses, BC Gaming, etc) that require “matching funds” from community donations and fundraising. Although we hope to raise more, we are only confident that we can raise about \$100,000 (currently at \$12,661). Thus, we would need a mortgage for the rest.
- 2) North Cowichan purchase and own the building and lease it back to the CNHA (e.g., with same terms as the old Fire Hall). The property is adjacent to the new Library and affordable housing lot, which the Municipality already owns.

C. REQUEST TO NORTH COWICHAN

In the first option, a shortfall in fundraising would mean the balance (e.g., \$310,000) would have to be financed by mortgage, which we could only do with the support of North Cowichan. We could purchase the building with an Open Mortgage that allows us to pay it off at any time. However, the lending institute would need financial assurance, which is why we need your support by being a guarantor. (This of course is not required if the Municipality purchases the building).

In short, we are asking North Cowichan to look into either acting as guarantor of the mortgage or consider purchasing the property for us to use, similar to the arrangement at the Old Fire Hall.

We are attaching an information sheet on what we provide for the community and hope to continue in the future.

Cowichan Neighbourhood House activities during Covid 19

October, 2020

Cowichan Neighbourhood House (CNHA) is a volunteer-run resource & youth centre in Chemainus, providing educational and recreational activities for families, youth, and individuals, as well as resources to those in need. All regular services are free of charge, including workshops, and are run by local volunteers. Our philosophy is summarized in our motto -- “neighbours helping neighbours.” We treat participants not as “clients”, but as fellow “neighbours”.

Prior to Covid, we had over **700 visits a month**. Our regular activities included: daily Youth drop-in with social time and free tutoring, daily Family drop in with free lunches, weekly Free Store (free clothing, household supplies, etc), weekly youth cooking, free workshops (including free First Aid & BC Food Safe) and other activities including cultural events. We also provide emergency social services and referrals for neighbours experiencing crises, run Adopt-a-Family-for-Christmas (**over 400 people helped**), while our Zero Food Waste program with the 49th Parallel Grocery, Loaves & Fishes, Utopia Bakery brings daily free food while reducing waste.


Since Covid19, we shed most activities other than “essential services”: food intake, prep, & distribution; helping the homeless with essentials; delivering food and checking in on Seniors; free tax filing; making & distributing free masks; helping people navigate government forms; & helping distribute health info on Covid.

Since Covid 19, we increased our Zero Food Waste intake to **4000lbs a month** of free food! This is mostly due to a new partnership with Loaves & Fishes Food Bank in Nanaimo.

Finally, we also helped to set up, manage, and provide daily meals for the Homeless Camp at Fuller Lake during the Summer (now closed).



Report

| | | |
|---------|---|---|
| Date | November 4, 2020 | File: |
| To | Council | |
| From | Mark Frame, General Manager, Financial and Protective Services | Endorsed:  |
| Subject | Temporary Borrowing Bylaw (RCMP Facility) No. 3802 for first three readings | |

Purpose

To introduce Temporary Borrowing Bylaw (RCMP Facility) No. 3802 to authorize funds to be borrowed for constructing the RCMP facility through the Municipal Finance Authority.

Background

Council obtained electors' approval to borrow upon the credit of the Municipality a sum not to exceed \$48 million to construct the new RCMP facility to be located at the corner of Drinkwater and Ford Road on July 14 2020. Adoption of the North Cowichan/Duncan Integrated RCMP Facility Loan Authorization Bylaw No. 3787, 2020 occurred on July 15, 2020. Following the 30-day challenge period of that bylaw, the Certificate of Approval for the Loan Authorization Bylaw was received in August 2020.

The next steps toward building the RCMP facility are to pass a Temporary Borrowing Bylaw or adopt a securities issuing resolution, which would then be sent to the regional district for inclusion in their Securities Issuing Bylaw.

Discussion

At this time, staff is proposing that Council adopt a Temporary Borrowing bylaw to enable the Municipality to borrow funds when construction starts. This will allow North Cowichan to temporarily borrow funds from the Municipal Finance Authority (MFA) over the next three years.

Temporary borrowing under section 181 of the *Community Charter* enables the Municipality to access financing through the MFA after a loan authorization bylaw has been adopted. Temporary borrowing allows funds to be advanced as needed rather than borrowing the entire loan authorization amount up front (\$48 million) and paying interest on the whole amount. However, temporary borrowing must be paid back with the funds from the debenture debt.

Options

Option 1 (recommended): That Council give first, second and third readings to Temporary Borrowing Bylaw (RCMP Facility) No. 3802.

- Use temporary borrowing to pay for construction costs as they are incurred. This would mean getting monthly or bi-monthly advances against the temporary borrowing. Debenture debt draws are only available in April and October of each year. The temporary borrowing

would be converted to debenture debt in October of 2021, 2022 and 2023 depending on construction progress.

Option 2: Send a resolution to the Cowichan Valley Regional District to include \$48 million in borrowings in their Securities Issuing Bylaw for 2021.

- This option would require that North Cowichan start making interest and principal payments on the entire amount.

Implications

Temporary borrowing reduces the total amount of interest paid. Temporary borrowing allows the principal payments to be phased in over several years.

Recommendation

That Council give first, second and third readings to Temporary Borrowing Bylaw (RCMP Facility) No. 3802, 2020.

Attachment: Temporary Borrowing Bylaw (RCMP Facility) No. 3802



The Corporation of the District of North Cowichan

Temporary Borrowing Bylaw (RCMP Facility)

Bylaw 3802

WHEREAS Council has adopted North Cowichan / Duncan Integrated RCMP Facility Loan Authorization Bylaw No. 3787, 2020 to construct a new Integrated Royal Canadian Mounted Police (RCMP) facility located on the corner of Drinkwater and Ford Road;

NOW THEREFORE the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:


1. There may be borrowed the sum of forty-eight million dollars (\$48,000,000) from the Municipal Finance Authority of British Columbia.
2. The form of obligation to be given as acknowledgement of the liability is a promissory note bearing the corporate seal and signed by the Mayor and the Financial Officer.
3. The proceeds from the sale of debentures in relation to Loan Authorization Bylaw No. 3787, 2020, or as much as may be necessary, will be used to repay the money borrowed under this bylaw.
4. This bylaw may be cited as "Temporary Borrowing Bylaw (RCMP Facility) No. 3802, 2020".

READ a first time on
READ a second time on
READ a third time on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Report

| | | |
|---------|--|---|
| Date | November 4, 2020 | File: SPP00042 |
| To | Council | |
| From | Rob Conway, Director of Planning & Building | Endorsed:  |
| Subject | Housing Agreement Bylaw for Affordable Housing at Willow St and Sherman Rd | |

Purpose

To introduce the Housing Agreement Bylaw and leases for the planned affordable housing projects at 9800 Willow Street and 3191 Sherman Road.

Background

On December 7, 2016, Council passed a resolution to support, in principle, entering into a 99-year lease with the Community Land Trust Foundation of BC to develop the municipally-owned properties at 9800 Willow Street and 3191 Sherman Road (the "Properties"). The Properties were rezoned by Bylaws 3645 and 3646, to accommodate the affordable housing development, and both were adopted on February 21, 2017. As well, the Duncan Curling Club's lease was recently modified to accommodate the proposed development at the Sherman Road site, and the property will be subdivided as part of the development approval process.

Discussion

The leases and housing agreements were prepared for North Cowichan's external legal counsel and have been reviewed by BC Housing. BC Housing is expected to be involved with funding the construction and operation of the affordable housing development by the Community Land Trust Foundation's CLT0003 Community Society.

The Housing Agreement Bylaw 2020, No. 3805, included as Attachment 1, contains the proposed Housing Agreement. According to s. 483 of the *Local Government Act*, a bylaw is required to authorize the Housing Agreement.

Key points of the proposed Housing Agreement include:

- Once constructed, each rental unit will be used and occupied as rental housing by an Eligible Household under a tenancy agreement.
- "Eligible Household" is defined as having an income of less than or equal to 80% of the median household total income for B.C. published by Statistics Canada.
- The monthly rent charged for a rental unit must not be greater than 30% of Household Income (as per definition of "non-market rent" in the Housing Agreement).

Development Permit applications are well underway.

The proposed leases have been included for information as Attachments 2 and 3 and are expected to be included for Council approval at the next regular meeting, following the publication of the required notices of property disposition.

Key points of the proposed leases include:

- The Lessee is CLT0003 Community Society (Inc. No. SS0070806), a society created by the Community Land Trust Foundation of B.C.
- The lease term is 99-years, beginning when the lease is registered on title.
- Payment received by North Cowichan is \$10 and construction of affordable housing buildings on the Properties.
- The Sherman Road site includes 34 townhouse units and 58 apartment units (total 92 residential units), with 19 accessible and 14 reserved for woman/family shelter housing. The Willow Street site includes 22 residential units, with 5 of these being accessible.
- All expenses and costs incurred in respect of the Properties, the affordable housing development buildings and any improvements are borne by the Lessee.
- The Lessee will construct, at its cost, the affordable housing development buildings and associated works.
- The lease includes provisions for termination on failure to construct.
- Use of the Properties and buildings must be for affordable rental housing for Eligible Occupants in accordance with the requirements of the Housing Agreement.

Options

Option 1: (Recommended): That Council gives first, second and third readings to Housing Agreement Bylaw 2020, No. 3805.

Option 2: That Council direct staff to amend the Housing Agreement or leases by *[insert modifications]* before proceeding. Staff would amend the agreement as directed and return it to a future meeting for Council's consideration.

Option 3: That Council not proceed with the affordable housing projects.

Recommendation

That Council gives first, second and third readings to Housing Agreement Bylaw 2020, No. 3805.

Attachments:

1. Housing Agreement Bylaw 2020, No. 3805.
2. Proposed Lease for 9800 Willow St
3. Proposed Lease for 3191 Sherman Rd



The Corporation of the District of North Cowichan

Housing Agreement Bylaw 2020

Bylaw 3805

WHEREAS a lessee of the lands within the Corporation of the District of North Cowichan, legally described as 1) Part of Lot 2, section 1, range 4, Somenos District, Plan 18897 (PID: 003-809-510), and 2) Lot 10, section 17, range 5, Chemainus District, Plan 6535 (PID: 005-858-071) (collectively, the "Lands") wishes to lease the Lands from the District and use the Lands to provide affordable housing for low to medium income households in the Cowichan region;

AND WHEREAS in connection with such lease, the District wishes to register against title to the Lands the section 219 covenant and Housing Agreement attached as Schedule A (the "Housing Agreement");

NOW THEREFORE the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

Citation

- 1** This Bylaw may be cited for all purposes as "Housing Agreement Bylaw 2020, No. 3805".
- 2** North Cowichan is authorized to enter into the Housing Agreement, substantially in the form attached as Schedule A.
- 3** The Corporate Officer is authorized to sign and file in the Land Title Office a notice of the Housing Agreement, as required by section 483 of the *Local Government Act*.

READ a first time on
READ a second time on
READ a third time on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Schedule A

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT – HOUSING AGREEMENT

(Section 219, *Land Title Act*)
(Section 483, *Local Government Act*)

THIS AGREEMENT is dated for reference _____ 2020 is

BETWEEN:

CLT0003 COMMUNITY SOCIETY (Inc. No. BC SS0070806)
220-1651 Commercial Drive, Vancouver BC V5L 3Y3

(the “**Society**”)

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN 7030 Trans-Canada Hwy, Duncan, BC V9L 6A1

(in its capacity as a municipality, the “**District**”)

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN 7030 Trans-Canada Hwy, Duncan, BC V9L 6A1

(in its capacity as owner of the Lands, the “**Owner**”)

WHEREAS:

- A. The Owner is the registered owner of the property situated, lying and being in the _____ of _____, in the Province of British Columbia, described in Item 2 of the Form C attached hereto (the “**Lands**”);
- B. The Society has leased the Lands from the Owner pursuant to a lease registered against title to the Lands in the land title office under no. _____ (the “**Lease**”);
- C. The Society intends to develop on the Lands a residential building (the “**Building**”) and associated parking (the “**Development**”);
- D. As a condition of securing financing for construction and operation of the Development, the Society intends to enter into an operating agreement with BC Housing;
- E. Section 483 of the *Local Government Act* permits the District to enter into housing agreements for the provision of affordable housing, which may include, without limitation, terms and conditions in respect of the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- F. Section 219 of the *Land Title Act* states that a covenant in favour of a municipality may be registered as

a charge against title to land and is enforceable against the covenantor and its successors in title even if the covenant is not annexed to land owned by the municipality and that such covenant may be of a positive or negative nature in respect of the use of, construction on, and subdivision of land;

- G. As a condition of the Development Permit being issued to facilitate the development of the Lands in the manner aforesaid, the Society has agreed to enter into this Agreement with the District and assume all of the obligations of the Owner under this Agreement while the Lease is in force; and
- H. The District has agreed to execute this Agreement in its capacity as Owner of the Lands for the purpose of facilitating its registration in the LTO in accordance with the Land Title Act and the requirements of the LTO.

NOW THIS AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge and agree to and will not be denied, the Society the District and the Owner covenant and agree as follows:

Article I. INTERPRETATION

Section 1.01 Definitions

In this Agreement, the following terms have the following meanings:

- (a) **“Agreement”** means this Section 219 Covenant – Housing Agreement together with all schedules, attachments and priority agreements attached hereto;
- (b) **“BC Housing”** means British Columbia Housing Management Commission, an agency of the Province of British Columbia, or its successor in function;
- (c) **“BC Housing Operating Agreement”** means an operating agreement in respect of the operation and rental of the Rental Units between the Society and BC Housing, as it may be amended or replaced from time to time;
- (d) **“Building”** has the meaning given to it in Recital C.
- (e) **“Building Code”** means the British Columbia Building Code established by the British Columbia Building Code Regulation, B.C. Reg. 264/2012, or as may be amended, replaced, restated, or re-enacted from time to time;
- (f) **“Development”** has the meaning given in Recital C.
- (g) **“Development Permit”** means Development Permit No. _____ issued by the District authorizing development on the Lands, as amended from time to time;
- (h) **“Dwelling Unit”** means one or more rooms which constitute a single, self-contained living unit including sanitary facilities, sleeping facilities and only one kitchen;
- (i) **“Eligible Household”** means a Household having a Household Income that is equal to or less than 80% of the median household total income for British Columbia published by Statistics Canada, or its successor in function, for the most recent census year provided that if Statistics Canada, or its successor in function, discontinues publication of the median total income of households for the British Columbia, **“Eligible Household”** shall be defined in reference to such other income threshold as approved by the District in writing from time to time;

- (j) **“Household”** means all of the individuals that occupy or propose to occupy a Rental Unit as permanent residence;
- (k) **“Household Income”** means the aggregate of annual gross income from all sources of each individual comprising a Household, based on the most recent tax returns filed with the Canada Revenue Agency;
- (l) **“Land Title Act”** means the *Land Title Act*, R.S.B.C., 1996, c. 250, as amended, replaced, restated, or re-enacted from time to time;
- (m) **“Land Title Office”** means the Victoria Land Title Office;
- (n) **“Lands”** has the meaning ascribed thereto in Recital A;
- (o) **“Lease”** has the meaning ascribed thereto in Recital B;
- (p) **“Local Government Act”** means the *Local Government Act*, R.S.B.C. 2015, c. 1, as amended, replaced, restated, or re-enacted from time to time;
- (q) **“Losses”** means any and all damages, losses, debts, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (r) **“Municipal Personnel”** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors, and volunteers of the District from time to time;
- (s) **“Non-Market Rent”** means monthly rent for a Rental Unit that is no greater than 1/12th of 30% of the Household Income of an Eligible Household occupying such Rental Unit;
- (t) **“Non-Profit Housing Co-operative”** means a housing co-operative pursuant to the *Cooperative Association Act (British Columbia)* whose purposes include provision of affordable housing to low and moderate income households, and whose constating documents prevent remuneration of directors and provide for disposition of assets on dissolution or windup to an organization with similar purposes and restrictions;
- (u) **“Occupancy Permit”** means a permit issued by the District authorizing the use and occupation of a building, structure, or part of a building or structure in accordance with the Corporation of the District of North Cowichan Building Bylaw 2003, Bylaw 3172;
- (v) **“Operator”** has the meaning ascribed thereto in Section 3.03(b);
- (w) **“Rental Housing”** means a dwelling unit that is rented, and which is not occupied by the registered or beneficial owner of the same, but which is made available by such owner to individual third parties at arm’s length, for use as residential rental accommodation on a month-to-month or longer basis in accordance with:
 - (i) this Agreement,
 - (ii) reasonably prudent landlord-tenant practice for rental residential accommodation,
 - (iii) and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia; and for certainty, includes a Dwelling Unit occupied

as part of a Non-Profit Housing Co-operative;

- (x) **“Rental Parking Area”** means the portion of the Development for the parking of motor vehicles, including drive-aisles and access-ways, by occupants, tenants, and invitees of the Rental Units, which includes the Required Stalls;
- (y) **“Rental Units”** means the Dwelling Units constructed and designated as rental units pursuant to section 3.01(c) of this Agreement;
- (z) **“Required Stalls”** means the parking stalls constructed in the Rental Parking Area in accordance with the Development Permit;
- (aa) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as amended, replaced, restated, or re-enacted from time to time;
- (bb) **“Society’s Personnel”** means any and all of the Society’s directors, officers, employees, agents, nominees, tenants, permittees, contractors, subcontractors, or any other person for whom the Society is legally responsible;
- (cc) **“Subdivide”** means to divide, apportion, consolidate or subdivide the Lands, or the ownership or right to possession or occupation of the Lands 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*, S.B.C 1998, c 43, or otherwise, and includes the creation, conversion, organization or development of "cooperative interests" or "shared interest in land" as defined in the *Real Estate Development Marketing Act*, S.B.C. 2004, c 41;
- (dd) **“Tenancy Agreement”** means a written tenancy agreement, lease or license or other written agreement granting rights to occupy a Rental Unit, including, without limitation, a co-operative occupancy agreement; and
- (ee) **“Tenancy Default”** has the meaning ascribed to it in Section 3.04 (c).

Section 1.02 Interpretation.

In this Agreement:

- (a) any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires;
- (b) wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa as the context or the parties so require;
- (c) the term “enactment” has the meaning given to it under the *Interpretation Act*, R.S.B.C 1996, c 238, on the reference date of this Agreement;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced from time to time, unless otherwise expressly provided;

- (f) the captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof; and
- (g) references to the or this “Agreement” and the words “hereof”, “herein” and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Article, Section, subsection or other subdivision is a reference to the designated Recital, Article, Section, subsection or subdivision hereof.

Article II. PERPETUAL AGREEMENT AND LAND TITLE OFFICE NOTICE

Section 2.01 This Agreement will be perpetual.

Section 2.02 The Owner acknowledges that the District will file in the Land Title Office on title to the Lands this Agreement and a notice in respect of this Agreement (collectively, the “**Notice**”) and any amendments made thereto from time to time in accordance with Section 7.07.

Article III. RESTRICTIONS ON AND CONDITIONS OF USE, OCCUPATION AND SUBDIVISION

Section 3.01 The Owner covenants and agrees that:

- (a) the Lands and all buildings situate thereon will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will construct and maintain the Building in accordance with the B.C. Building Code, the Development Permit, all bylaws of the District and any building permit issued pursuant thereto, and the requirements of this Agreement;
- (c) once constructed, each Dwelling Unit in the Building will be a Rental Unit and will be used and occupied as Rental Housing by an Eligible Household pursuant to a Tenancy Agreement;
- (d) it will construct and maintain the Rental Parking Area in accordance with the B.C. Building Code, the Development Permit, all bylaws of the District and any building permit issued pursuant thereto, and the requirements of this Agreement;
- (e) once constructed, the parking stalls in the Rental Parking Area will be the Required Stalls and will be made available for the sole benefit and use of the residents, visitors, and invitees of the Rental Units and will be allocated in accordance with the Development Permit;
- (f) it will not suffer, cause, or permit the Lands nor any part of the Building or Development to be Subdivided; and
- (g) it will not suffer, cause or permit the Lease or any interest in and to the Lands, any portion of the Building or Development, to be sold, leased (excepting Tenancy Agreements with individuals), or otherwise transferred unless the transferee(s) of the Lease or the interest, prior to and as a condition of completing of such transfer, enters into an assumption agreement satisfactory to the District whereby such transferee agrees to be and thereafter remain bound by each and every term and condition of this Agreement that is applicable to the Owner.

Section 3.02 The parties acknowledge that the Owner intends to enter into an Operating Agreement with BC Housing which may include terms and conditions regarding the operation and rental of the Rental Units that

conflict with the terms of this Agreement. Accordingly, while an Operating Agreement between BC Housing and the Owner is in effect, sections 3.03 and 3.04 of this Agreement will not apply to the Rental Units. For clarity, if there is no Operating Agreement in effect or if an Operating Agreement is terminated for any reason, sections 3.03 and 3.04 of this Agreement will apply to the Rental Units.

Section 3.03 The Owner covenants and agrees that:

- (a) the monthly rent charged for a Rental Unit shall not exceed Non-Market Rent;
- (b) it will not do, nor allow a tenant, resident or other occupant of or visitor to any Rental Unit to do, anything or enter into any arrangement with any person that prevents or could prevent the Required Stalls from being available for the tenants, residents or other occupant of or visitors to the Rental Units, as applicable; provided that it is acknowledged by the District that up to two of the Required Stalls may be assigned for the exclusive use of a resident, tenant, or other occupant of any one Rental Unit as determined by the Owner from time to time; and
- (c) when selecting occupants for a Rental Unit, it will give priority to Households with at least one member whose current permanent residence is located within in the District.

Section 3.04 The Owner covenants and agrees that:

- (a) it will forthwith deliver a certified true copy of every Tenancy Agreement (or the Tenancy Agreement for the Rental Unit Specified by the District) to the District upon demand from time to time;
- (b) every Tenancy Agreement between the Owner and a Household shall include a term:
 - (i) requiring the tenant thereunder and each permitted occupant of the Rental Unit to comply with this Agreement;
 - (ii) entitling the Owner to terminate the Tenancy Agreement if the following terms are breached:
 - i. the Rental Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of rent;
 - ii. the Household occupying the Rental Unit subject to such Tenancy Agreement fails to be an Eligible Household; and
 - iii. the tenant thereunder subleases the Rental Unit subject to the Tenancy Agreement or assigns the Tenancy Agreement in whole or in part, without the Owner's consent

(subsection i., ii. and iii. each constitute a **"Tenancy Default"**);
- (c) in the event of a Tenancy Default, it will terminate the relevant Tenancy Agreement by providing notice to the tenant that ends the tenancy on the earliest date possible permitted under the *Residential Tenancy Act* or other applicable legislation, and will cause the tenant to vacate by that date;
- (d) a Tenancy Agreement will identify all occupants of the Rental Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing in the Rental Unit; and
- (e) it will not consent to the subletting of a Rental Unit or assignment of a Tenancy Agreement, except if the assignment is to an Eligible Household and the assignee does not pay any amount to the assignor in consideration of such assignment.

Section 3.05 The Owner covenants and agrees that:

- (a) the Rental Units shall be operated and managed by a housing society, non-profit housing corporation, Non-Profit Housing Co-operative, or other entity approved by the District in writing (the “**Operator**”), and the Owner shall cause the Operator to comply with and fulfil all of the Owner’s obligations under this Agreement in relation to the Rental Units, and, for clarity, the Owner’s engagement of an Operator will not relieve the Owner from any of the Owner’s obligations under this agreement nor any restrictions or requirements of this Agreement;
- (b) unless and until the District consents otherwise in writing by way of an amendment to this Agreement on request of the Owner, it will keep and maintain the Development, including without limitation the Building, Rental Units and the Required Stalls, in good repair and in a safe, clean, neat and tidy condition, reasonable wear and tear excepted, and fit for human habitation and consistent with the general standards required by the *Residential Tenancy Act* (if applicable) and all other applicable statutes, regulations, bylaws, and rules in effect from time to time for residential rental units of similar age and character in the District from time to time and will comply with the same, including health and safety standards applicable to the Development; provided that, subject to and in accordance with Section 532 of the *Local Government Act*, if the Development or any part of thereof is damaged or destroyed by any means whatsoever including fire, the Owner will promptly restore, repair, and replace the same whenever and as often as damage occurs to at least as good a state and condition as existed before such damage occurred and in accordance with the provisions of this Agreement relevant to the initial construction of the Development;
- (c) upon issuance of an Occupancy Permit for the Building, it will post and will at all times maintain, and update from time to time as applicable, signage at the main entrance to the Building which signage clearly sets out the then current name and contact information for the Operator for means of contact for residents and other persons; and
- (d) it will not demolish the Development or any portion thereof without the prior written consent of the District and, in any case, without a demolition permit therefor issued by the District in the District’s sole discretion, and following any such demolition it will construct a replacement Development on the Lands in accordance with Section 3.01 and use and occupy any replacement Development or portion thereof in compliance with this Agreement to the same extent and in the same manner as this Agreement applies to the original Development or portion thereof.

Article IV. OCCUPANCY RESTRICTION ON THE LANDS

Section 4.01 The Owner covenants and agrees with the District in respect of the use of the Lands and the Development that:

- (a) the Development will not be used or occupied except in accordance with the following:
 - i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, any building, structure or part of any building or structure on the Lands, aside from the Building, and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit for any building, structure, or part of any building or structure on the Lands, aside from the Building, until such time as the Owner applies for an Occupancy Permit for the Building; and
 - ii) the District will be under no obligation to issue any Occupancy Permit permitting the use and occupation of any building, structure or any part of a building or structure on the Lands, aside

from the Building, notwithstanding completion of construction of such building, structure or part of a building or structure, until such time as an Occupancy Permit has been issued for the Building; and

- (b) without limiting the general scope of Article VI, the Owner does hereby waive, remise, and release absolutely any and all claims against the District and Municipal Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this Section 4.01.

Article V. RECORD KEEPING

Section 5.01 The Owner will keep accurate records pertaining to the use and occupancy of the Building and the amenity areas within the Development, such records to be to the satisfaction of the District, including without limitation, a copy of the BC Housing Operating Agreement and amendments thereto. At the request of the District, from time to time, the Owner will make such records available for inspection and copying by the District and, if required by the District, accompanied by a statutory declaration in form satisfactory to the District. The District will comply with all applicable statutory obligations with respect to privacy of such information.

Article VI. INSURANCE, INDEMNITY AND RELEASE

Section 6.01 The Owner will insure, or cause to be insured, the Building and all parts thereof, to the full replacement cost against perils normally insured against in the District by reasonable and prudent owners of similar subdivided parcels, premises and lands.

Section 6.02 The Owner hereby agrees to indemnify and save harmless the District and the Municipal Personnel from and against any and all Losses which the District and the Municipal Personnel, or any of them, may suffer, incur, or be put to, arising, whether directly or indirectly, out of this Agreement, including without limitation:

- (a) a breach of any covenant or condition of this Agreement by the Owner or the Owner's Personnel;
- (b) the use or occupancy of any Rental Unit or any part of the Building;
- (c) any negligent act or omission or willful misconduct of the Owner or any of the Society's Personnel in connection with the performance and observance of the obligations of the Owner under this Agreement;
- (d) any negligent act or omission or willful misconduct of the Operator or any of the Operator's personnel in connection with the performance and observance of the obligations of the Owner under this Agreement;
- (e) any claim of contribution made by third parties in respect of damage for which the Owner has released the District and the Municipal Personnel under this Agreement; and
- (f) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands, the Development or any Rental Unit, or the enforcement of any Tenancy Agreement relating to a Rental Unit.

Section 6.03 The Owner hereby releases the District and the Municipal Personnel from any and against all Losses that may arise or accrue to or be suffered or incurred by the Owner:

- (a) in relation to the existence of this Agreement or any default of the Owner under or in respect of this Agreement;

- (b) in relation to the exercise by the District of any of its rights under this Agreement or an enactment;
- (c) by reason of the District or Municipal Personnel:
 - (i) reviewing, accepting, or approving the design, specifications, materials, and methods of the Owner's construction upon the Lands;
 - (ii) withholding any permit pursuant to or due to this Agreement; or
 - (iii) exercising any of its rights under the *Local Government Act*, bylaws, or any other right of the District under this Agreement;
- (d) in relation to the construction, maintenance, repair, replacement, ownership, lease, license, operation, financing or management of the Lands, the Development or any part thereof, including the Rental Units; or
- (e) that otherwise arise out of or would not have been incurred but for, this Agreement.

Section 6.04 The Owner covenants and agrees with the District that, in addition to any other remedies available to the District under this Agreement or at law or equity, if the Owner defaults under the terms of this Agreement, including without limitation omitting, failing or neglecting to carry out any of its obligations contained in this Agreement and doing or carrying out an act contrary to the Owner's obligations contained in this Agreement:

- (a) the Owner shall rectify such default within 10 days' of receipt of written notice of such default to the Owner by the District;
- (b) if the Owner fails to cure such default to the satisfaction of the District within the required time frame specified in Section 6.04(a) or if the District, in case of emergency, does not consider that it has time to deliver the notice referred to in Section 6.04(a), the District may, but is under no obligation to, enter onto the Lands and rectify such default to the extent considered necessary by the District;
- (c) if the Owner fails to take such positive action as the District considers necessary to rectify any default as provided for herein, the District may apply to court for a mandatory or prohibitive order requiring the Owner to take such action; and
- (d) the Owner shall pay to the District on demand the aggregate of the District's costs of rectifying any default of the Owner under this Agreement together with any other fees, costs, and other amounts the Owner may owe to the District from time to time pursuant to or arising from this Agreement, plus a sum equal to 15% of the collective amount of such fees, costs, and other monies on account of the District's overhead costs, and if the Owner fails to pay such amounts to the District within 30 days from the date the Owner receives any such demand from the District, any and all arrears will bear interest from the date of demand to the date of payment at the prime rate of the Bank of Nova Scotia plus 3% per annum.

Section 6.05 Survival of Release and Indemnities. This Article VI will remain effective, and will survive any modification of, or partial release or release of the covenants created by this Agreement, and the termination of this Agreement, whether by fulfillment of the covenants contained in this Agreement or otherwise.

Article VII. GENERAL PROVISIONS

Section 7.01 No Obligations of Owner. Until the Lease is terminated, surrendered or otherwise of no force or effect:

- (a) the Society assumes all obligations, rights, responsibilities and liability of the “Owner” under this Agreement, and
- (b) the Owner has no obligation or responsibility under this Agreement whatsoever.

Section 7.02 Registration & Priority. The Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement is registered as a covenant under section 219 of the *Land Title Act* against title to the Lands in priority to the Lease and all charges and encumbrances registered or pending registration against title to the Lands save and except those in favour of the District or specifically approved in advance in writing by the District, and that a notice under section 483(5) of the *Local Government Act* is filed on the title to the Lands as a legal notation, and that, as a result, this Agreement is binding on all persons who acquire an interest in the land affected by this Agreement.

Section 7.03 Legislation. Any reference to a law or statute herein includes and is a reference to such law or statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any law or statute or applicable regulation amending, replacing, or superseding any of the same.

Section 7.04 Time. Time shall be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that part may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time shall be Pacific Standard Time.

Section 7.05 No Effect on Rights. Nothing contained or implied herein will prejudice the rights and powers of the District in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and this Agreement does not impose on the District any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement, nor does this Agreement relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

Section 7.06 Benefit of District. The District is a party to this Agreement for the purpose only of receiving the covenants, promises and agreements as provided in the terms of this Agreement and is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Lands, the Development or any portion thereof and the District may at any time execute a release for the discharge of the Notice of this Agreement without liability to anyone for doing so, and without obtaining the consent of the Owner.

Section 7.07 Agreement Runs with the Lands. Following the filing of the *Notice* in the Land Title Office of this Agreement and, if applicable, any amendments thereto, will be binding on all persons who acquire an interest in the land affected by this Agreement, as amended if applicable, and any parcel from which it is subdivided by any means and any parcel into which it is consolidated. It is further expressly agreed that this Agreement may be modified or amended from time to time, by consent of the Owner and a bylaw duly passed by the Municipal Council and thereafter if an amendment is signed by the District, the Owner, and, if required, the Society.

Section 7.08 Housing Agreement/Section 219 Covenant. The Owner acknowledges and agrees that this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*.

Section 7.09 Enurement. This Agreement will enure to the benefit of and be binding upon the parties hereto

and their respective successors and permitted assigns.

Section 7.10 Further Assurances. The parties will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

Section 7.11 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.

Section 7.12 Severability. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

Section 7.13 Waiver. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

Section 7.14 No Fiduciary Relationship. Nothing contained in this Agreement will be deemed in any way, or for any purpose, to constitute the District a partner, agent or legal representative of the Owner in the conduct of any business or otherwise, or a member of a joint venture or joint enterprise with the Owner, or to create any fiduciary relationship between the District and the Owner.

Section 7.15 Joint and Several. If the Owner consists of more than one person, firm, or corporation, from time to time, the Owner's obligations under this Agreement shall be joint and several.

Section 7.16 Survival. Notwithstanding anything contained herein, the Owner covenants and agrees that the obligations of the Owner, including without limitation those set out in Article VI, shall survive termination or release of this Agreement.

Section 7.17 Notice. Whenever it is required or desired that either party will deliver or serve a notice on the other, delivery or service will be deemed to be satisfactory if and deemed to have occurred when:

- (a) the Corporate Officer of the District, and a clerk or a director of the Society, if applicable, has been served personally, on the date of service; or
- (b) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada Post office, whichever is the earlier, so long as the notice is mailed to, in the case of the District, the address provided in this Agreement and addressed to the Corporate Officer, or in the case of the Owner, or its successor in title, at the address noted on the Certificate of Title for the Lands, or to whatever address a party may from time to time provide to the other party.

Section 7.18 Society's Representations and Warranties. The Society represents and warrants to and covenants and agrees with the District that:

- (a) the Society has the full and complete power, authority, and capacity to enter into, execute, and deliver this Agreement and to bind its interest in the Lands with the interests in lands created hereby;
- (b) upon execution and delivery of this Agreement and the filing of the Notice, the interests in land created hereby will encumber the Society's interest in the Lands;
- (c) this Agreement will be fully and completely binding upon the Society in accordance with its terms and the Society will perform all of its obligations, and the obligations of the Owner while the Lease is in force,

under this Agreement in accordance with its terms; and

- (d) the foregoing representations, warranties, covenants, and agreements will have force and effect notwithstanding any knowledge on the part of the District whether actual or constructive concerning the status of the Society with regard to the Lands or any other matter whatsoever.

Section 7.19 By executing and delivering this Agreement the Society intends to create both a contract and a deed executed and delivered under seal.

Section 7.20 Counterparts. This Agreement may be executed and delivered by the parties hereto in one or more counterparts, each of which will be an original.

IN WITNESS WHEREOF, each of the parties has duly executed this Agreement on the Forms C and D to which this Agreement is attached and which form part of this Agreement, effective as of the date first written above.

LEASE - 9800 WILLOW STREET

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WHEREAS:

- A. The Lessee wishes to provide affordable housing for low to medium income households in the Cowichan region and agrees to lease the Lands for this purpose.
- B. 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 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.

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

1.1 Definitions

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 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) "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.
- (d) "Basic Rent" means ten dollars (\$10.00).
- (e) "Building" means the residential buildings to be constructed on the Lands, all as described in Schedule A or as may be approved in writing by the Lessor, together with all Alterations or repairs from time to time thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands.
- (f) "Commencement of Construction" means the later of the date when the first building permit for the Building is issued to the Lessee by the City and the date when the Lessee's contractor commences any work on the Lands related to construction of the Building.

- (g) “Eligible Occupant” means a person who, during the time that such person is a tenant in the Building, meets the occupancy requirements of the Housing Agreement.
- (h) “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.
- (i) “Housing Agreement” means an agreement or agreements entered into or to be entered into among the Landlord, the Tenant and the Municipality pursuant to section 483 of the *Local Government Act* (British Columbia) that relates to the occupation of the Building, which agreement will also be registered against title to the Lands as a covenant under section 219 of the *Land Title Act*.
- (j) “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.
- (k) “Lease” means this Lease.
- (l) “Lease Commencement Date” means the date this Lease is registered at the Lower Mainland Land Title Office.
- (m) “Lessee” means CLT0003 Community Society (Inc. No. BC SS0070806) and includes any person to whom the Lessee assigns this Lease in accordance with the terms of this Lease
- (n) “Lessor” means The Corporation of the District of North Cowichan.
- (o) “Losses” means liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, including related professional and other fees and disbursements and costs.
- (p) “Mortgage” means a registered mortgage or registered mortgages granted by the Lessee in accordance with section 15.1 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.
- (q) “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.
- (r) “Municipality” means the Corporation of the District of North Cowichan.
- (s) “Permitted Encumbrances” means the charges and encumbrances, if any, registered on title to the Lands on the Lease Commencement Date, the Housing Agreement and any legal notations related to the Housing Agreement that are registered on title to the Lands and any other charges specifically approved in writing by the Lessor.
- (t) “Personnel” of a party means the elected officials and directors, officers, employees,

servants and agents of that party, as applicable.

- (u) “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 is 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”.
- (v) “Realty Taxes” means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital Municipality Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise) 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 on the Lands, by any municipal, parliamentary, legislative, regional, school or other authority.
- (w) “Term” means ninety-nine (99) years commencing on the Lease Commencement Date.
- (x) “Trustee” means a trust company duly authorized to carry on business in the province of British Columbia and appointed by the Lessor for the purposes of Article 9 of this Lease.
- (y) “Utilities” means all charges, rates and levies on account of utilities, including 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, recyclables and organics collection.

1.2 Legislation References

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 - PAYMENT OF RENT

2.1 Basic Rent

The Lessee covenants and agrees with the Lessor to pay to the Lessor the Basic Rent for the Term on the Lease Commencement Date.

2.2 Net Lease

It is the intention of the Lessor and the Lessee that all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements of the Lands or for any other matter or thing affecting the Lands, will be borne by the Lessee and unless otherwise expressly stipulated to the contrary, the Basic Rent and the

Additional Rent will be absolutely net to the Lessor and free of all abatements, set-off or deduction of any Realty Taxes, utilities and any other, expenses, costs, payments and outgoings of every nature arising from or related to the Lands, the Building or any other improvements of the Lands or for any other matter or thing affecting the Lands, and the Lessee will pay or cause to be paid all such Realty Taxes, Utilities, expenses, costs, payments and outgoings.

2.3 Interest on Amounts in Arrears

When the Basic Rent, Additional Rent or any other amount payable hereunder by the Lessee to the Lessor is in arrears, such amount will bear interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly not in advance, from the date due until paid. Notwithstanding the foregoing, this section will not apply to defaults under section 3.1.

2.4 Payments Generally

All payments by the Lessee to the Lessor of whatsoever nature required or contemplated by this Lease will be:

- (a) paid to the Lessor by the Lessee in lawful currency of Canada;
- (b) made when due under this Lease, without prior demand and without any set-off, abatement or deduction whatsoever, at the office of the Lessor or such other place as the Lessor may designate from time to time to the Lessee;
- (c) applied towards amounts then outstanding under this Lease, in such manner as the Lessor may see fit; and
- (d) deemed to be Additional Rent, in partial consideration for which this Lease has been entered into, and will be payable and recoverable as Additional Rent, such that the Lessor will have all of the rights and remedies against the Lessee for default in making any such payment that may not be expressly designated as rent, as the Lessor has for default in payment of rent.

ARTICLE 3 - PAYMENT OF TAXES

3.1 Payment of Realty Taxes

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 Delinquent Taxes

If the Lessee in any year during the Term fails to pay any Realty Taxes when due, the Lessee will pay to the Lessor, on demand, interest on the amount outstanding at the percentage rate or rates established by the Province of British Columbia or the applicable taxing authority for unpaid Realty Taxes

3.3 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.

3.4 Payment of Utilities

The Lessee will pay for or cause to be paid during the Term when due to the providers thereof all Utilities with respect to the Lands or the Building.

3.5 Business Tax and License Fees

The Lessee will 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 (including by or under the Lessee and by or under 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.

3.6 Other Taxes

The Lessee will pay when due all goods and services taxes, harmonized sales 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, or that would not be payable but for, its rights and obligations contained in this Lease, including, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Lessee to the Lessor.

3.7 Pro-rating Obligations

In the first and last years of the Term, the Lessee's obligations under section 3.1 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.

ARTICLE 4 - CONSTRUCTION OF BUILDING

4.1 Lessee to Construct Building

The Lessee will construct the Building, together with other facilities ancillary thereto and connected therewith, on the Lands in substantial accordance with the drawings, specifications (including materials to be used), elevations, location on the Lands and exterior decoration and design and all other documents and information upon which the issuance of the building permits by the Municipality are based and that have been approved by the Lessor. No changes will be made to such drawings, specifications, elevations, location, exterior decoration and design, other documents or information, or to the requirements of such building permits without the approval of the Lessor

4.2 Substantial Completion of Building

For the purposes of this Article 4, the Building will be deemed to have been substantially completed when the Architect has certified to, or otherwise satisfied, the Lessor that, with respect to the Building:

- (a) all work of a structural nature has been properly completed;
- (b) all building equipment and services, including elevators (if any), heating systems and air-conditioning systems (if any) and utilities have been completed, are operating properly and are available for use by tenants of the Lessee, and all lobbies, stairwells and other areas intended for the common use of tenants of the Lessee are completed except for work of a superficial nature, which is both minor in character and of a type that, owing to the likelihood of damage, may reasonably be deferred until the Building is partially or substantially occupied by tenants of the Lessee;
- (c) the Building complies with all of the Municipality's bylaws and regulations (including the Municipality's Building Bylaw);
- (d) all rentable space is completed and ready for occupancy except for work of a superficial nature that is dependent upon unascertained requirements of individual tenants of the Lessee, and work that is reasonably and customarily performed by tenants of the Lessee;
- (e) all areas are clean and all surplus building material and rubbish have been removed;
- (f) the Building is in a condition in which it can be occupied by tenants of the Lessee, and any work that is still unfinished can be completed promptly and is work the incompleteness of which will not be objectionable to a tenant of the Lessee acting reasonably;
- (g) the Building has been constructed in all respects in a good and workmanlike manner and in accordance with the drawings and specifications referenced in or approved by

Lessor under section 4.1, and in compliance with all building permits issued by the Municipality; and

- (h) a certificate of completion has been issued in respect of the Building pursuant to the *Builders Lien Act* (British Columbia).

4.3 Termination of Lease on Failure to Construct

Subject to sections 4.6 and 17.2, if Commencement of Construction has not taken place within two years of the Lease Commencement Date, or if construction of the Building is not substantially completed in accordance with the requirements of section 4.2 before the fifth anniversary of the Lease Commencement Date, the Lessor will have the option at any time thereafter to terminate this Lease, and in such event this Lease will terminate and be of no further force or effect and without any reimbursement or compensation to the Lessee, unless the Lessor consents in writing to extend the deadline for Commencement of Construction or substantial completion, as the case may be, such consent not to be unreasonably withheld.

4.4 Landscaping

Within one hundred and eighty (180) days of substantial completion of the Building, the Lessee will landscape the Lands and thereafter maintain the landscaping in accordance with landscaping plans that have been approved by the Lessor.

4.5 Alterations After Substantial Completion

After substantial completion of 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, which approval the Lessor will not unreasonably withhold. Without limiting the foregoing, no Alterations involving an estimated cost of more than Two Hundred Thousand Dollars (\$200,000.00) will be undertaken until the Lessee has submitted or caused to be submitted to the Lessor 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 may request in connection with the proposed Alterations, and until all of the same have been approved in writing by the Lessor, which approval the Lessor will not unreasonably withhold. The Lessee covenants and agrees with the Lessor that, subject to section 4.6, all Alterations undertaken by or for the Lessee once begun will be prosecuted with due diligence to completion.

4.6 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, the Lessee is prevented or delayed in achieving Commencement of Construction or substantial completion of the Building in accordance with section 4.2 or 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 and the Lessee.

ARTICLE 5 - BUILDERS LIENS

5.1 Builders Liens

In connection with all labour performed on or materials supplied to the Lands, including but not limited to the construction of the Building, 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 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. If the Lessee fails to comply with the foregoing, 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 and the Lessor's reasonable expenses in connection therewith.

5.3 Notice by Lessor

Pursuant to section 3(2) of the *Builders Lien Act*, the Lessor may file in the Land Title Office a "notice of interest" in respect of the Lands and for all purposes of this Lease the construction 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

The Lessee covenants and agrees with the Lessor that neither the Lands nor Building nor any part of the Lands or Building will be used for any purpose except that of affordable rental housing for Eligible Occupants in accordance with the requirements of the Housing Agreement.

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.

6.3 No Subdivision

The Lessee will not subdivide the Lands or the Building pursuant to the *Strata Property Act* (British Columbia).

6.4 Constitution

The Lessee covenants and agrees that without the prior written consent of the Lessor, it will not amend or permit its constitution to be amended or varied in any way from the constitution filed in the British Columbia Corporate Registry as of the Lease Commencement Date.

6.5 Restriction on Operating Revenue & 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, without the express written consent of the Lessor;
- (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, without the express written consent of the Lessor;
- (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.

6.6 Permitted Encumbrances

The Lessee will perform and observe all of:

- (a) the Lessee's obligations under the Housing Agreement; and
- (b) all of the Lessor's obligations of under the Permitted Encumbrances, including the Housing Agreement (but only the Lessor's obligations thereunder arising from its ownership of the Lands and not those rights of the Municipality in its regulatory capacity).

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 Municipality 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.

6.7 Lessee to Operate on a Non-Profit Basis

The Lessee will operate the Building on a non-profit basis, such that there will be no accumulation of funds in excess of those needed to operate and manage the Lands and Building in accordance with this Lease and the Housing Agreement.

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, vaults, stairways, elevators (if any) and

similar devices, heating and air conditioning equipment, sidewalks, 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 4.5, 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;
- (c) at the expiration or earlier termination of this Lease, the Lessee will, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Building, and the fixtures, appurtenances and equipment thereon and therein, or any replacements or substitution therefor, in good order and condition; and
- (d) if the Lessee does not fulfil its obligations set out in this Article 7, the Lessor, through its 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 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 in making such repairs to the Lands and Building 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 the date paid.

7.3 Removal of Ice and Snow from Sidewalks

The Lessee will 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 and if the Lessee at any time fails to do so, 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) 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 Insurance During Construction of Building

Prior to the Commencement of Construction of the Building, and throughout the entire period of construction until substantial completion of the Building pursuant to section 4.2, the Lessee will effect or will cause its contractor or contractors to effect and maintain in full force the following insurance coverage:

- (a) wrap-up liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, issued in the joint names of the Lessee, the Lessor, the Lessee's contractors, any subcontractors and their respective Personnel, protecting them against claims for bodily injury, death or property damage or other third party or public liability claims arising from any accident or occurrence upon, in or about the Lands from any cause, including the risks occasioned by the construction of the Building; and
- (b) all-risk course of construction insurance issued in the joint names of the Lessee, the Lessor, protecting them from all loss or damage of or to the Building and all fixtures, equipment, improvements and building materials on the Lands from time to time, both during and after construction (but which may be by different policies effected from time to time covering the risk during different phases of construction of the Building, provided that at no time will the Building be uninsured) against fire, earthquake, flood and all other perils from time to time customarily included in the usual all-risks builders' risk form of policy applicable to similar properties during construction and effected in the province of British Columbia by prudent owners, and such other perils as the Lessor may reasonably require to be insured against, to the full replacement value thereof at all times.

9.2 Commercial General Liability Insurance

The Lessee will effect and keep in force commercial general liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor 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 Lands 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 and its Personnel as additional insureds with respect to third party claims arising out of the Lessee's operations pursuant to this Lease.

9.3 All Risk Property, Pressure Vessel and Rental Income Insurance

Immediately following substantial completion of the Building and at all times thereafter during the Term, the Lessee will effect and maintain property insurance in the joint names of the Lessor 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:

- (a) rental income insurance in an amount equal to the maximum annual rental income of the Building; and
- (b) boilers and pressure vessels, protecting against usual and unusual perils, including damage caused by rupture of steam pipes.

The policies described in this section 9.3 will contain a clause directing insurers to make losses payable to the Lessee, the Lessor and the Mortgagee as their interests may appear.

9.4 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;
- (b) the stated amount of value insured under property policies will be of sufficient amount that none of the Lessee, 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 with insurers licensed to do business in the province of British Columbia and acceptable to the Lessor;

- (d) any deductible amounts applying to a claim against a policy will be of an amount approved by the Lessor;
- (e) each policy will contain a clause requiring that the insurers provide to the Lessor 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.

In addition to the notification obligations of the insurers required by section 9.4(e), the Lessee will provide to the Lessor 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.

9.5 Evidence of Insurance

Prior to the Lease Commencement Date the Lessee will provide the Lessor 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 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, 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 at any time, the Lessee will forthwith deliver to the Lessor a certified copy of each insurance policy requested.

9.6 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 and the Mortgagee. The Lessee and the Lessor 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 and the Lessor 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 will be entitled to effect such restoration, reconstruction or replacement and the Trustee will pay

such insurance monies to the Lessor in the same manner that the Trustee would have done had the Lessee effected such restoration, reconstruction or replacement.

9.7 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 of WorkSafeBC 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 workmen, employees, servants and others engaged in or upon any work, and that all workmen, contractors or other workers require the same of their workmen and subcontractors. The Lessee will immediately notify the Lessor 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 9.7 is not in place, the Lessor 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, including without limitation those set forth in Division 3 of Part 3 of the WCA and in sections 20.2 and 20.3 of the OHS Regulation, 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.

9.8 Release of Lessor from Liability for Insured Loss or Damage

The Lessee hereby releases the Lessor and its Personnel, whether or not the Lessor and its 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, the intent being that the Lessee’s policies of insurance will contain a waiver of subrogation in favour of the Lessor.

ARTICLE 10 - DAMAGE OR DESTRUCTION

10.1 Rent Not to Abate

Subject to the provisions of sections 10.5, 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, the Lessee covenants and agrees with the Lessor 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; 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, the Lessee covenants and agrees with the Lessor 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; 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 4.5 and Article 7.

10.5 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 10.5(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:

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term}); \text{ and}$$
- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 10.5, this section 10.5 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.

ARTICLE 11 - INSPECTION AND EXHIBITION BY LESSOR

11.1 Inspection by Lessor

It will be lawful for representatives of the Lessor to enter the Lands and the Building at all reasonable times during the Term in order to examine the condition thereof. If the Lessor determines that any of the repairs described in section 7.2 are required, the Lessor may give notice of such required repairs to the Lessee, and the Lessee will within

thirty (30) days after every such notice, or such longer period as provided in section 17.1(d), complete the required repairs.

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 and the Lessee's representatives and invitees may enter the Lands and Buildings, at reasonable times and upon reasonable notice to the Lessee, for the purposes of showing the Lands and Buildings to prospective purchasers or lessees.

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, then the same will be performed and observed by the Lessee, at its cost, in the place and stead of the Lessor.

ARTICLE 13 - EXCLUSION OF LIABILITY AND INDEMNITY

13.1 Limitation of Liability and Release

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

- (a) any bodily injury or death caused, suffered or sustained in or about the Lands or the Building; or
- (b) any property damage or other loss or damage 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,

unless resulting from the negligence or wilful acts of the Lessor or its Personnel or contractors, as the case may be.

13.2 Exclusion of Liability

Notwithstanding section 13.1, neither the Lessor nor its Personnel or contractors will be liable in any circumstances for:

- (a) 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.

13.3 Indemnification

The Lessee will indemnify and save harmless the Lessor and its Personnel and contractors from and against all Losses which the Lessor or its Personnel or contractors may suffer or incur arising out of this Lease; provided, however, that such indemnity will not apply to the extent to which such Losses result from the respective negligence and/or wilful acts of the Lessor or its Personnel or contractors, as the case may be. Subject to the foregoing proviso, the Lessee will indemnify and save harmless the Lessor and its 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 or its 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.

13.4 Indemnification Survives Termination of Lease

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

ARTICLE 14 - SUBLETTING AND ASSIGNING

14.1 Subletting and Assigning by Lessee

The Lessee will not sublease, assign, transfer, sell or encumber the Lease or enter into any agreement for the purpose of sub-leasing, assignment, transferring, selling or encumbering the Lease, the Building or the Lands, except as expressly permitted in this Lease, or with the prior written consent of the Lessor, which consent the Lessor may arbitrarily withhold. The Lessee may sublet or grant licences or other rights to occupy

any part of the Building to Eligible Occupants.

Notwithstanding the foregoing, the Lessee may, with the written consent of the Lessor, acting reasonably, enter into agreements with one or more sub-operators in respect of some or all of the units in the Building. A sub-operator may, pursuant to such agreement, discharge duties of the Lessee hereunder, and may enter into occupancy agreements with Eligible Occupants in its own name. No agreement with any sub-operator will relieve the Lessee of any of its obligations to the Lessor hereunder.

14.2 Copies of Subleases

If requested by the Lessor, a copy of all subleases, licenses or agreements to occupy will be forwarded to the Lessor within thirty (30) days after the receipt of the request.

ARTICLE 15 - MORTGAGE

15.1 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, 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.

ARTICLE 16 - BANKRUPTCY OF LESSEE

16.1 Bankruptcy of Lessee

Subject to the provisions of section 17.2(c), if the Lessee's interest in this Lease 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 the *Winding-up and Restructuring Act* (Canada) or 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 the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada) or 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 the *Winding-up and Restructuring Act* or *Bankruptcy and Insolvency Act* or determining the proceedings for reorganization, arrangement,

adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency has been properly instituted, then this Lease will, at the option of the Lessor, immediately become terminated.

ARTICLE 17 - DEFAULT BY LESSEE

17.1 Re-entry on Certain Defaults by Lessee

Subject to the provisions of section 17.2, 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 by any provision of this Lease, and such default continues for thirty (30) 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 thirty (30) days following notice by the Lessor 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 event 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 event, and if at the expiration of forty-five (45) days after the giving of such notice the default continues to exist, or in the case of a default 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 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 sections 4.3 and 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 17.1, 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.

17.2 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 the Mortgage and specified an address for notice in accordance with Article 22, unless the Lessor has first given to the Mortgagee written notice of the default entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default, and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default 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 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 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;

and the Lessor hereby grants the Mortgagee access to the Lands and the Building for that purpose. If the default is cured within the period specified, or in the circumstances referred to in 17.2(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term provided 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 personal representatives, successors 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 specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default specified as aforesaid by that Mortgagee that is willing to cure the default 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 17.2(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, the Lessor will not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default 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 17.2(c), cures the default within a period of sixty (60) days from the date of receipt of notice from the Lessor specifying the nature of the default, or if the default 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 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; 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 the curing of the default or contingency may be delayed until the date that the Mortgagee acquires 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 personal representatives, successors 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 granted by this section 17.2(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 16 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 22, 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 cause 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 commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that the curing of the default or contingency may be delayed until the Mortgagee acquires the Lessee's interest in this Lease; and
 - (iii) subject to the right of a Mortgagee to delay the curing of the default or contingency as set out in section 17.2(c)(ii), attorns as tenant to the Lessor and undertakes 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 personal representatives, successors 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.

17.3 Remedies of Lessor are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies that the Lessor may have at law or equity. No remedy will be deemed to be exclusive, and the Lessor 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 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.

17.4 Waiver by Lessor

The failure of the Lessor 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 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 will be effective unless made in writing.

ARTICLE 18 - SURRENDER OF LEASE

18.1 Surrender of Lease

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, including, without restricting the generality of the foregoing, the provisions of section 10.5(b), except as herein otherwise expressly provided.

ARTICLE 19 - QUIET ENJOYMENT, OWNERSHIP OF TENANTS' FIXTURES AND OWNERSHIP OF BUILDING

19.1 Covenant for Quiet Enjoyment

Subject to the Lessor'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 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 local government, of its 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 19.1.

19.2 Ownership of Tenant's Fixtures

The Lessee may confer upon tenants or occupants of the Building 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.

19.3 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, except as provided in Article 10, 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 20 - OVERHOLDING

20.1 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee overholds and the Lessor accepts 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 amount described in section 3.1.

ARTICLE 21 - ENVIRONMENTAL MATTERS

21.1 Definitions

For the purposes of this Article 21:

- (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.

21.2 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 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 on 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 13, to indemnify the Lessor and its 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 21 by the Lessee; or
 - (ii) the release or alleged release of any Contaminants on 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 21 will survive the expiry or earlier termination of this Lease, and the obligations of the Lessee under this Article 21 are in addition to, and will not limit, the other obligations of the Lessee under this Lease.

ARTICLE 22 - NOTICES

22.1 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:

7030 Trans Canada Hwy, Duncan, BC, V9L 6A1

Attention: Director of Planning and Building

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

[insert]

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 23 - MISCELLANEOUS

23.1 Statements by Lessor

The Lessor and the Lessee will, at any time and from time to time, upon not less than thirty (30) days prior request by the other party, 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.

23.2 Time of Essence

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

23.3 Formality of Modifications

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

permitted assigns.

23.4 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.

23.5 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease will extend to, be binding upon and enure to the benefit of the Lessor and the Lessee, the successors and assigns of the Lessor, and the successors and permitted assigns of the Lessee.

23.6 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.

23.7 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.

In this Agreement, where the word “including” is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word “including”.

23.8 Execution

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

Schedule A

Describe Building

**LEASE - 3191 SHERMAN RD
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WHEREAS:

- A. The Lessee wishes to provide affordable housing for low to medium income households in the Cowichan region and agrees to lease the Lands for this purpose.
- B. 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 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.

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

1.1 Definitions

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 Utilities and all sums payable by way of indemnity under this Lease, but excluding Basic Rent.
- (b) "Adjacent Lands" means the lands adjacent to the Lands to the west legally described as:
PID: 003-809-471
Lot 1, Section 1, Range 4, Somenos District PLAN 18897
- (c) "Alterations" means all alterations, changes, replacements, substitutes, additions and improvements to the Building.
- (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 ten dollars (\$10.00).
- (f) "Building" means the residential buildings to be constructed on the Lands all as described in Schedule A or as may be approved in writing by the Lessor, together with all Alterations or repairs from time to time thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands.

- (g) “Commencement of Construction” means the later of the date when the first building permit for the Building is issued to the Lessee by the City and the date when the Lessee’s contractor commences any work on the Lands related to construction of the Building.
- (h) “Curling Club Lands” means the lands adjacent to the Lands to the south and legally described as:

[Insert post-subdivision legal]
- (i) “Eligible Occupant” means a person who, during the time that such person is a tenant in the Building, meets the occupancy requirements of the Housing 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) “Housing Agreement” means an agreement or agreements entered into or to be entered into among the Landlord, the Tenant and the Municipality pursuant to section 483 of the *Local Government Act* (British Columbia) that relates to the occupation of the Building, which agreement will also be registered against title to the Lands as a covenant under section 219 of the *Land Title Act*.
- (l) “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.
- (m) “Lease” means this Lease.
- (n) “Lease Commencement Date” means the date this Lease is registered at the Lower Mainland Land Title Office.
- (o) “Lessee” means CLT0003 Community Society (Inc. No. BC SS0070806) and includes any person to whom the Lessee assigns this Lease in accordance with the terms of this Lease.
- (p) “Lessee Easement” has the meaning assigned to it in section 8.2.
- (q) “Lessee Easement Area” means the western portion of the West Parking Lot located on the Adjacent Lands and the southeast portion of the West Parking Lot located on the Curling Club Lands, both of which are outlined and labelled “Lessee Easement Area” on the West Parking Lot Plan.
- (r) “Lessor” means The Corporation of the District of North Cowichan.
- (s) “Lessor Easement” has the meaning assigned to it in section 8.1.
- (t) “Lessor Easement Area” means the portion of the West Parking Lot labelled “Lessor Easement Area” on the West Parking Lot Plan.

- (u) “Losses” means liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, including related professional and other fees and disbursements and costs.
- (v) “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.
- (w) “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.
- (x) “Municipality” means the Corporation of the District of North Cowichan.
- (y) “Permitted Encumbrances” means the charges and encumbrances, if any, registered on title to the Lands on the Lease Commencement Date, the Housing Agreement and any legal notations related to the Housing Agreement that are registered on title to the Lands and any other charges specifically approved in writing by the Lessor.
- (z) “Personnel” of a party means the elected officials and directors, officers, employees, servants and agents of that party, as applicable.
- (aa) “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 is 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”.
- (bb) “Realty Taxes” means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital Municipality Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise) 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 on the Lands, by any municipal, parliamentary, legislative, regional, school or other authority.
- (cc) “Term” means ninety-nine (99) years commencing on the Lease Commencement Date.
- (dd) “Trustee” means a trust company duly authorized to carry on business in the province of British Columbia and appointed by the Lessor for the purposes of Article 10 of this Lease.
- (ee) “Utilities” means all charges, rates and levies on account of utilities, including 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, recyclables and

organics collection.

- (ff) “West Parking Lot” means the parking lot shown outlined on the West Parking Lot Plan which is located on the Lands, Adjacent Lands, and Curling Club Lands and which the Lessee is constructing concurrently with the construction of the Building.
- (gg) “West Parking Lot Plan” means the plan attached hereto as Schedule “B” showing the Parking Lot, Lessee Easement Area and Lessor Easement Area.

1.2 Legislation References

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 - PAYMENT OF RENT

2.1 Basic Rent

The Lessee covenants and agrees with the Lessor to pay to the Lessor the Basic Rent for the Term on the Lease Commencement Date.

2.2 Net Lease

It is the intention of the Lessor and the Lessee that all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements of the Lands or for any other matter or thing affecting the Lands, will be borne by the Lessee and unless otherwise expressly stipulated to the contrary, the Basic Rent and the Additional Rent will be absolutely net to the Lessor and free of all abatements, set-off or deduction of any Realty Taxes, utilities and any other, expenses, costs, payments and outgoings of every nature arising from or related to the Lands, the Building or any other improvements of the Lands or for any other matter or thing affecting the Lands, and the Lessee will pay or cause to be paid all such Realty Taxes, Utilities, expenses, costs, payments and outgoings.

2.3 Interest on Amounts in Arrears

When the Basic Rent, Additional Rent or any other amount payable hereunder by the Lessee to the Lessor is in arrears, such amount will bear interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly not in advance, from the date due until paid. Notwithstanding the foregoing, this section will not apply to defaults under section 3.1.

2.4 Payments Generally

All payments by the Lessee to the Lessor of whatsoever nature required or contemplated by this Lease will be:

- (a) paid to the Lessor by the Lessee in lawful currency of Canada;
- (b) made when due under this Lease, without prior demand and without any set-off, abatement or deduction whatsoever, at the office of the Lessor or such other place as the Lessor may designate from time to time to the Lessee;
- (c) applied towards amounts then outstanding under this Lease, in such manner as the Lessor may see fit; and
- (d) deemed to be Additional Rent, in partial consideration for which this Lease has been entered into, and will be payable and recoverable as Additional Rent, such that the Lessor will have all of the rights and remedies against the Lessee for default in making any such payment that may not be expressly designated as rent, as the Lessor has for default in payment of rent.

ARTICLE 3 - PAYMENT OF TAXES

3.1 Payment of Realty Taxes

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 Delinquent Taxes

If the Lessee in any year during the Term fails to pay any Realty Taxes when due, the Lessee will pay to the Lessor, on demand, interest on the amount outstanding at the percentage rate or rates established by the Province of British Columbia or the applicable taxing authority for unpaid Realty Taxes

3.3 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.

3.4 Payment of Utilities

The Lessee will pay for or cause to be paid during the Term when due to the providers thereof all Utilities with respect to the Lands or the Building.

3.5 Business Tax and License Fees

The Lessee will 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 (including by or under the Lessee and by or under 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.

3.6 Other Taxes

The Lessee will pay when due all goods and services taxes, harmonized sales 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, or that would not be payable but for, its rights and obligations contained in this Lease, including, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Lessee to the Lessor.

3.7 Pro-rating Obligations

In the first and last years of the Term, the Lessee's obligations under section 3.1 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.

ARTICLE 4 - CONSTRUCTION OF BUILDING

4.1 Lessee to Construct Building

The Lessee will construct the Building, together with other facilities ancillary thereto and connected therewith, on the Lands in substantial accordance with the drawings, specifications (including materials to be used), elevations, location on the Lands and exterior decoration and design and all other documents and information upon which the issuance of the building permits by the Municipality are based and that have been approved by the Lessor. No changes will be made to such drawings, specifications, elevations, location, exterior decoration and design, other documents or information, or to the requirements of such building permits without the approval of the Lessor

4.2 Substantial Completion of Building

For the purposes of this Article 4, the Building will be deemed to have been substantially completed when the Architect has certified to, or otherwise satisfied, the Lessor that, with respect to the Building:

- (a) all work of a structural nature has been properly completed;
- (b) all building equipment and services, including elevators (if any), heating systems and air-conditioning systems (if any) and utilities have been completed, are operating properly and are available for use by tenants of the Lessee, and all lobbies, stairwells and other areas intended for the common use of tenants of the Lessee are completed except for work of a superficial nature, which is both minor in character and of a type that, owing to the likelihood of damage, may reasonably be deferred until the Building is partially or substantially occupied by tenants of the Lessee;
- (c) the Building complies with all of the Municipality's bylaws and regulations (including the Municipality's Building Bylaw);
- (d) all rentable space is completed and ready for occupancy except for work of a superficial nature that is dependent upon unascertained requirements of individual tenants of the Lessee, and work that is reasonably and customarily performed by tenants of the Lessee;
- (e) all areas are clean and all surplus building material and rubbish have been removed;
- (f) the Building is in a condition in which it can be occupied by tenants of the Lessee, and any work that is still unfinished can be completed promptly and is work the incompleteness of which will not be objectionable to a tenant of the Lessee acting reasonably;
- (g) the Building has been constructed in all respects in a good and workmanlike manner and in accordance with the drawings and specifications referenced in or approved by Lessor under section 4.1, and in compliance with all building permits issued by the Municipality; and
- (h) a certificate of completion has been issued in respect of the Building pursuant to the *Builders Lien Act* (British Columbia).

4.3 Termination of Lease on Failure to Construct

Subject to sections 4.6 and 18.2, if Commencement of Construction has not taken place within two years of the Lease Commencement Date, or if construction of the Building is not substantially completed in accordance with the requirements of section 4.2 before the fifth anniversary of the Lease Commencement Date, the Lessor will have the option at any time thereafter to terminate this Lease, and in such event this Lease will terminate and be of no further force or effect and without any reimbursement or compensation to the Lessee, unless the Lessor consents in writing to extend the deadline for Commencement of Construction or substantial completion, as the case may be, such

consent not to be unreasonably withheld.

4.4 Landscaping

Within one hundred and eighty (180) days of substantial completion of the Building, the Lessee will landscape the Lands and thereafter maintain the landscaping in accordance with landscaping plans that have been approved by the Lessor.

4.5 Alterations After Substantial Completion

After substantial completion of 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, which approval the Lessor will not unreasonably withhold. Without limiting the foregoing, no Alterations involving an estimated cost of more than Two Hundred Thousand Dollars (\$200,000.00) will be undertaken until the Lessee has submitted or caused to be submitted to the Lessor 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 may request in connection with the proposed Alterations, and until all of the same have been approved in writing by the Lessor, which approval the Lessor will not unreasonably withhold. The Lessee covenants and agrees with the Lessor that, subject to section 4.6, all Alterations undertaken by or for the Lessee once begun will be prosecuted with due diligence to completion.

4.6 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, the Lessee is prevented or delayed in achieving Commencement of Construction or substantial completion of the Building in accordance with section 4.2 or 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 and the Lessee.

ARTICLE 5 - BUILDERS LIENS

5.1 Builders Liens

In connection with all labour performed on or materials supplied to the Lands, including but not limited to the construction of the Building, 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 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. If the Lessee fails to comply with the foregoing, 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 and the Lessor's reasonable expenses in connection therewith.

5.3 Notice by Lessor

Pursuant to section 3(2) of the *Builders Lien Act*, the Lessor may file in the Land Title Office a "notice of interest" in respect of the Lands and for all purposes of this Lease the construction 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

The Lessee covenants and agrees with the Lessor that neither the Lands nor Building nor any part of the Lands or Building will be used for any purpose except that of affordable rental housing for Eligible Occupants in accordance with the requirements of the Housing Agreement.

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.

6.3 No Subdivision

The Lessee will not subdivide the Lands or the Building pursuant to the *Strata Property Act* (British Columbia).

6.4 Constitution

The Lessee covenants and agrees that without the prior written consent of the Lessor, it will not amend or permit its constitution to be amended or varied in any way from the constitution filed in the British Columbia Corporate Registry as of the Lease Commencement Date.

6.5 Restriction on Operating Revenue & 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, without the express written consent of the Lessor;
- (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, without the express written consent of the Lessor;
- (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.

6.6 Permitted Encumbrances

The Lessee will perform and observe all of:

- (a) the Lessee's obligations under the Housing Agreement; and
- (b) all of the Lessor's obligations of under the Permitted Encumbrances, including the Housing Agreement (but only the Lessor's obligations thereunder arising from its ownership of the Lands and not those rights of the Municipality in its regulatory capacity).

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 Municipality 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.

6.7 Lessee to Operate on a Non-Profit Basis

The Lessee will operate the Building on a non-profit basis, such that there will be no accumulation of funds in excess of those needed to operate and manage the Lands and Building in accordance with this Lease and the Housing Agreement.

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, vaults, stairways, elevators (if any) and similar devices, heating and air conditioning equipment, sidewalks, 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 4.5, 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;

- (c) at the expiration or earlier termination of this Lease, the Lessee will, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Building, and the fixtures, appurtenances and equipment thereon and therein, or any replacements or substitution therefor, in good order and condition; and
- (d) if the Lessee does not fulfil its obligations set out in this Article 7, the Lessor, through its 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 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 in making such repairs to the Lands and Building 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 the date paid.

7.3 Removal of Ice and Snow from Sidewalks

The Lessee will 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 and if the Lessee at any time fails to do so, 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 - WEST PARKING LOT EASEMENTS

- 8.1 Lessor Easement** – The Lessee, as lessee of the Lands, hereby grants to the Lessor, as owner of the Adjacent Parcel and Curling Club Lands, the full and free non-exclusive right, liberty and easement (the “Lessor Easement”) for the Lessor and its successors and assigns, and their respective employees, agents, contractors, invitees, licensees (including, without the need for specific invitation or authorization, the general public), tenants and successors and assigns, to, in common with the Lessee, at all times during the term of the Lease and from time to time hereafter, enter, be on, pass and repass over the Lessor Easement Area with or without vehicles, to:
- (a) gain access to and egress from the Adjacent Lands and Curling Club Lands,
 - (b) remove any structure, improvement or other thing that may interfere with the exercise

of any of the rights granted under this section;

- (c) trim, cut down or remove any tree, shrub, plant or other growth that may interfere with the exercise of any of the rights granted under this section; and
- (d) do all other things as may be incidental to or reasonably necessary or desirable in connection with the foregoing.

8.2 Lessee Easement – The Lessor, as owner of the Adjacent Lands and Curling Club Lands, hereby grants to the Lessee, as lessee of the Lands, the full and free non-exclusive right, liberty and easement (the “Lessee Easement”) for the Lessee and its successors and assigns, and their respective employees, agents, contractors, invitees, licensees (including, without the need for specific invitation or authorization, the general public), tenants, and successors and assigns, to, in common with the Lessor, at all times during the term of the Lease and from time to time hereafter, enter, be on, pass and repass over the portion of the Lessor Easement Area, with or without vehicles, to:

- (a) construct, repair, maintain, alter and replace the portion of the West Parking Lot located on the Lessee Easement Area;
- (b) make surveys and tests and establish grades and levels within the Lessee Easement Area;
- (c) store personal property (including equipment) within the Lessee Easement Area as may be necessary to exercise any of the other rights under this section;
- (d) gain access and egress to and from the Lands and the Building;
- (e) remove from the Lessee Easement Area any structure, improvement or other thing that constitutes or may constitute a danger, impairment or obstruction to those using the Lessee Easement Area or may interfere with the exercise of any of the rights granted under this section;
- (f) trim, cut down or remove any tree, shrub, plant or other growth that may interfere with the exercise of any of the rights granted under this section; and
- (g) do all other things as may be incidental to or reasonably necessary or desirable in connection with the foregoing.

8.3 Term of Easement – The Lessee Easement and the Lessor Easement will continue until the Lease is terminated, expires without being renewed, or for any reason is no longer of force or effect, at which time the Lessee Easement and the Lessor Easement will expire and be of no further force and effect.

8.4 Lessee Covenants: Western Parking Lot – The Lessee hereby covenants and agrees with

the Lessor that:

- (a) it will construct the Western Parking Lot concurrently with the construction of the Building and the Building will not be occupied until construction of the Western Parking Lot is substantially complete;
- (b) construction of the Western Parking Lot will be substantially complete within 120 days of the Lessee commencing construction of the Western Parking Lot;
- (c) "ARTICLE 4 – CONSTRUCTION OF BUILDING" and "ARTICLE 5 – BUILDERS LIENS" of the Lease will apply to the construction of the Western Parking Lot, as if, for the purposes of those Articles, the Western Parking Lot and the portion of the Adjacent Lands and Curling Clubs Lands on which the Western Parking Lot will be constructed form part of the Building and the Lands;
- (d) it will inspect, maintain, repair and replace the Western Parking Lot, and keep it clear of snow and ice, so that the Western Parking Lot at all times in a good and safe condition and useable as a parking lot;
- (e) it will obtain and maintain insurance over the Western Parking Lot during and after construction thereof in accordance with "ARTICLE 10 – INSURANCE" as if, for the purposes of that Article, the Western Parking Lot formed part of the Building and the Lands; and
- (f) "ARTICLE 14 – EXCLUSION OF LIABILITY AND INDEMNITY" of the Lease will apply to the Western Parking Lot as if, for the purposes of that Article, the Western Parking Lot was a part of the Building or the Lands.

ARTICLE 9 - ADDITIONAL RENT

9.1 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) 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 10 - INSURANCE

10.1 Insurance During Construction of Building

Prior to the Commencement of Construction of the Building, and throughout the entire period of construction until substantial completion of the Building pursuant to section 4.2, the Lessee will effect or will cause its contractor or contractors to effect and maintain in full force the following insurance coverage:

- (a) wrap-up liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, issued in the joint names of the Lessee, the Lessor, the Lessee's contractors, any subcontractors and their respective Personnel, protecting them against claims for bodily injury, death or property damage or other third party or public liability claims arising from any accident or occurrence upon, in or about the Lands from any cause, including the risks occasioned by the construction of the Building; and
- (b) all-risk course of construction insurance issued in the joint names of the Lessee, the Lessor, protecting them from all loss or damage of or to the Building and all fixtures, equipment, improvements and building materials on the Lands from time to time, both during and after construction (but which may be by different policies effected from time to time covering the risk during different phases of construction of the Building, provided that at no time will the Building be uninsured) against fire, earthquake, flood and all other perils from time to time customarily included in the usual all-risks builders' risk form of policy applicable to similar properties during construction and effected in the province of British Columbia by prudent owners, and such other perils as the Lessor may reasonably require to be insured against, to the full replacement value thereof at all times.

10.2 Commercial General Liability Insurance

The Lessee will effect and keep in force commercial general liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor 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 Lands 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 and its Personnel as additional insureds with respect to third party claims arising out of the Lessee's operations pursuant to this Lease.

10.3 All Risk Property, Pressure Vessel and Rental Income Insurance

Immediately following substantial completion of the Building and at all times thereafter during the Term, the Lessee will effect and maintain property insurance in the joint names of the Lessor 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:

- (a) rental income insurance in an amount equal to the maximum annual rental income of the Building; and
- (b) boilers and pressure vessels, protecting against usual and unusual perils, including damage caused by rupture of steam pipes.

The policies described in this section 10.3 will contain a clause directing insurers to make losses payable to the Lessee, the Lessor and the Mortgagee as their interests may appear.

10.4 Insurance – Additional Provisions

The following provisions will apply to all policies of insurance which are referred to in this Article 10:

- (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;
- (b) the stated amount of value insured under property policies will be of sufficient amount that none of the Lessee, 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 with insurers licensed to do business in the province of British Columbia and acceptable to the Lessor;
- (d) any deductible amounts applying to a claim against a policy will be of an amount approved by the Lessor;
- (e) each policy will contain a clause requiring that the insurers provide to the Lessor 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.

In addition to the notification obligations of the insurers required by section 10.4(e), the Lessee will provide to the Lessor 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 10.

10.5 Evidence of Insurance

Prior to the Lease Commencement Date the Lessee will provide the Lessor 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 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, 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 at any time, the Lessee will forthwith deliver to the Lessor a certified copy of each insurance policy requested.

10.6 Payment of Loss Under Insurance Policies

The insurance monies payable under the policies of insurance referred to in this Article 10, will, notwithstanding the terms of the policy or policies, be paid to the Trustee on behalf of the Lessee, the Lessor and the Mortgagee. The Lessee and the Lessor agree that the Trustee will, subject to section 11.5, 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 and the Lessor 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 will be entitled to effect such restoration, reconstruction or replacement and the Trustee will pay such insurance monies to the Lessor in the same manner that the Trustee would have done had the Lessee effected such restoration, reconstruction or replacement.

10.7 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 of WorkSafeBC 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 workmen, employees, servants and others engaged in or upon any work, and that all workmen, contractors or other workers require the same of their workmen and subcontractors. The Lessee will immediately notify the Lessor 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 10.7 is not in place, the Lessor 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, including without limitation those set forth in Division 3 of Part 3 of the WCA and in sections 20.2 and 20.3 of the OHS Regulation, 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.

10.8 Release of Lessor from Liability for Insured Loss or Damage

The Lessee hereby releases the Lessor and its Personnel, whether or not the Lessor and its 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, the intent being that the Lessee’s policies of insurance will contain a waiver of subrogation in favour of the Lessor.

ARTICLE 11 - DAMAGE OR DESTRUCTION

11.1 Rent Not to Abate

Subject to the provisions of sections 11.5, 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.

11.2 Lessee’s Obligation When Building Partially Damaged or Destroyed

Subject to the provisions of sections 11.5, the Lessee covenants and agrees with the Lessor 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; 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.

11.3 Lessee's Obligations When Building Completely or Substantially Destroyed

Subject to the provisions of sections 11.5, the Lessee covenants and agrees with the Lessor 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; 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.

11.4 Replacement, Repair or Reconstruction

Any replacement, repair or reconstruction of the Building or any part thereof pursuant to the provisions of section 11.2 or 11.3 will be made or done in compliance with section 4.5 and Article 7.

11.5 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 11.3 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 11.5(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 10, 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:

amount payable = (balance of insurance monies) x (days in expired portion of the Term ÷ total days in Term); and

- (B) to the Lessee the amount calculated as follows:

amount payable = (balance of insurance monies) x (days remaining in the Term ÷ total days in Term); and

- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 11.5, this section 11.5 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 11.5 or any part thereof remains unperformed.

ARTICLE 12 - INSPECTION AND EXHIBITION BY LESSOR

12.1 Inspection by Lessor

It will be lawful for representatives of the Lessor to enter the Lands and the Building at all reasonable times during the Term in order to examine the condition thereof. If the Lessor determines that any of the repairs described in section 7.2 are required, the Lessor may give notice of such required repairs 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), complete the required repairs.

12.2 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 and the Lessee's representatives and invitees may enter the Lands and Buildings, at reasonable times and upon reasonable notice to the Lessee, for the purposes of showing the Lands and Buildings to prospective purchasers or lessees.

ARTICLE 13 - OBSERVANCE OF GOVERNMENTAL REGULATIONS

13.1 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, then the same will be performed and observed by the Lessee, at its cost, in the place and stead of the Lessor.

ARTICLE 14 - EXCLUSION OF LIABILITY AND INDEMNITY

14.1 Limitation of Liability and Release

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

- (a) any bodily injury or death caused, suffered or sustained in or about the Lands or the Building; or
- (b) any property damage or other loss or damage 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,

unless resulting from the negligence or wilful acts of the Lessor or its Personnel or contractors, as the case may be.

14.2 Exclusion of Liability

Notwithstanding section 14.1, neither the Lessor nor its Personnel or contractors will be liable in any circumstances for:

- (a) 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 will indemnify and save harmless the Lessor and its Personnel and contractors from and against all Losses which the Lessor or its Personnel or contractors may suffer or incur arising out of this Lease; provided, however, that such indemnity will not apply to the extent to which such Losses result from the respective negligence

and/or wilful acts of the Lessor or its Personnel or contractors, as the case may be. Subject to the foregoing proviso, the Lessee will indemnify and save harmless the Lessor and its 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 or its 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 and its Personnel and contractors will apply and continue notwithstanding the termination or expiration of this Lease.

ARTICLE 15 - SUBLETTING AND ASSIGNING

15.1 Subletting and Assigning by Lessee

The Lessee will not sublease, assign, transfer, sell or encumber the Lease or enter into any agreement for the purpose of sub-leasing, assignment, transferring, selling or encumbering the Lease, the Building or the Lands, except as expressly permitted in this Lease, or with the prior written consent of the Lessor, which consent the Lessor may arbitrarily withhold. The Lessee may sublet or grant licences or other rights to occupy any part of the Building to Eligible Occupants.

Notwithstanding the foregoing, the Lessee may, with the written consent of the Lessor, acting reasonably, enter into agreements with one or more sub-operators in respect of some or all of the units in the Building. A sub-operator may, pursuant to such agreement, discharge duties of the Lessee hereunder, and may enter into occupancy agreements with Eligible Occupants in its own name. No agreement with any sub-operator will relieve the Lessee of any of its obligations to the Lessor hereunder.

15.2 Copies of Subleases

If requested by the Lessor, a copy of all subleases, licenses or agreements to occupy will be forwarded to the Lessor within thirty (30) days after the receipt of the request.

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, 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.

ARTICLE 17 - BANKRUPTCY OF LESSEE

17.1 Bankruptcy of Lessee

Subject to the provisions of section 18.2(c), if the Lessee's interest in this Lease 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 the *Winding-up and Restructuring Act* (Canada) or 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 the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada) or 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 the *Winding-up and Restructuring Act* or *Bankruptcy and Insolvency Act* or determining the proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency has been properly instituted, then 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 section 18.2, 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 by any provision of this Lease, and such default continues for thirty (30) 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 thirty (30) days following notice by the Lessor 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 event 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 event, and if at the expiration of forty-five (45) days after the giving of such notice the default continues to exist, or in the case of a default 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 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 sections 4.3 and 11.5,

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 the Mortgage and specified an address for notice in accordance with Article 23, unless the Lessor has first given to the Mortgagee written notice of the default entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default, and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default 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 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 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;

and the Lessor hereby grants the Mortgagee access to the Lands and the Building for that purpose. If the default 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 provided 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 personal representatives, successors 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 specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default specified as aforesaid by that Mortgagee that is willing to cure the default 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, the Lessor will not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default 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 within a period of sixty (60) days from the date of receipt of notice from the Lessor specifying the nature of the default, or if the default 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 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; 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 the curing of the default or contingency may be delayed until the date that the Mortgagee acquires 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 personal representatives, successors 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 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 23, 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 cause 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 commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that the curing of the default or contingency may be delayed until the Mortgagee acquires the Lessee's interest in this Lease; and

- (iii) subject to the right of a Mortgagee 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 undertakes 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 personal representatives, successors 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 are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies that the Lessor may have at law or equity. No remedy will be deemed to be exclusive, and the Lessor 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 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

The failure of the Lessor 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 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 will be effective unless made in writing.

ARTICLE 19 - SURRENDER OF LEASE

19.1 Surrender of Lease

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, including, without restricting the generality of the foregoing, the provisions of section 11.5(b), except as herein otherwise expressly provided.

ARTICLE 20 - QUIET ENJOYMENT, OWNERSHIP OF TENANTS' FIXTURES AND OWNERSHIP OF BUILDING

20.1 Covenant for Quiet Enjoyment

Subject to the Lessor'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 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 local government, of its 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 20.1.

20.2 Ownership of Tenant's Fixtures

The Lessee may confer upon tenants or occupants of the Building 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.

20.3 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, except as provided in Article 11, 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 21 - OVERHOLDING

21.1 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee overholds and the Lessor accepts 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 amount described in section 3.1.

ARTICLE 22 - ENVIRONMENTAL MATTERS

22.1 Definitions

For the purposes of this Article 22:

- (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.

22.2 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 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 on 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 and its 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 22 by the Lessee; or
 - (ii) the release or alleged release of any Contaminants on 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 22 will survive the expiry or earlier termination of this Lease, and the obligations of the Lessee under this Article 22 are in addition to, and will not limit, the other obligations of the Lessee under this Lease.

ARTICLE 23 - NOTICES

23.1 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:

7030 Trans-Canada Hwy, Duncan, BC, V9L 6A1

Attention: Director of Planning and Development

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

[insert]

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 24 - MISCELLANEOUS

24.1 Statements by Lessor

The Lessor and the Lessee will, at any time and from time to time, upon not less than thirty (30) days prior request by the other party, 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.

24.2 Time of Essence

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

24.3 Formality of Modifications

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

24.4 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.

24.5 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease will extend to, be binding upon and enure to the benefit of the Lessor and the Lessee, the successors and assigns of the Lessor, and the successors and permitted assigns of the Lessee.

24.6 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.

24.7 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.

In this Agreement, where the word “including” is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word “including”.

24.8 Execution

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

Schedule A

Describe Building

Schedule B

West Parking Lot Plan

Report

Date November 4, 2020
To Council
From James Goodman, Manager, Budgets and Infrastructure
Subject 3rd Quarter Financial Report

File:

Endorsed:



Purpose

The purpose of this report is to provide the General Fund Statement of Operation and a Capital update for the period ending September 30, 2020, and the Reserve Funds balance as of September 30, 2020.

Background

The 3rd quarter usually gives a good indication of how we are doing operationally compared to the budget. As operations and service levels continue to increase through almost six months of the COVID-19 pandemic, revenues other than taxation levies and expenditures remain challenging to predict in some areas, especially at our recreational facilities. Construction season is underway; however, there continues to be delays or cancellations of many capital projects due to COVID-19.

Discussion

Operating Revenue:

- *Taxation revenue* is in line with the 2020 budget. As of September 30, 2020, which was the extended due date for property taxes, the Municipality had collected 96.6% of all taxation levies, the same rate of collection as in 2019.
- *General Sales of Service revenues* are down \$1,631,000 from this time last year. This is mainly due to reduced revenues from Forestry (down \$834,000), Fuller Lake Arena (down \$52,000) and the Cowichan Aquatic Centre (down \$726,000). Forestry revenues are down due to the harvesting pause while the technical review and public engagement are underway, while the Fuller Lake Arena and Cowichan Aquatic Centre revenues are down due to COVID-19.
- *Building permit fees, development fees, and engineering fees* are all down from this time last year (down a combined \$270,000); however, all are on target to meet the 2020 budget.

Operating Expenses:

- *General Government Services* are in line with the 2020 budget.
- *Protective Services* are in line with the 2020 budget.
 - The RCMP contract has been billed to June 30, 2020; therefore police expenditures are only at 58% of the annual budget.
 - Police are \$802,000 higher than this time last year due to the RCMP filling the approved member compliment from 25.43 FTE last year to 28.42 FTE's this year.

- Other protective services expenses have increased by \$110,000 due to the Community Safety Office.
- *Environmental Health Services* is in line with the 2020 budget. Garbage is up \$318,000 from this time last year due to an increase in the recycling pick up contract.
- *Recreation, Cultural and Miscellaneous Services* are in line with the 2020 budget. Swimming pools are down \$1,002,000 due to the closures of the Cowichan Aquatic Centre (down \$960,000) and Crofton outdoor pool (down \$42,000) during the COVID-19 pandemic.

Capital:

To date, 33% (\$8,541,171) of the capital budget has been committed. The COVID-19 pandemic has delayed the start of some projects due to delays in design work.

- *Municipally Owned Property* - the public works and operations buildings' feasibility studies have been delayed waiting for space analysis results. This has been deferred to 2021. The completion of the Crofton Fire Hall remediation study has also been completed, and a report will be coming to Council recommending a course of action for the Fire Hall. The balance of the budget will be carried forward to 2021 for building design.
- *Community Development* – The Crofton waterfront and boat ramp design have been cancelled due to BC Ferries deferring expansion plans because of COVID-19. The Chemainus Boardwalk is on hold. The parking lot construction at the old Chemainus Fire Hall is on hold and will be used as a construction staging area for low-cost housing construction.
- *Police and Other* – The building construction design is expected to be completed in late fall 2020, and site works construction will begin in early 2021.
- *Transportation* – Chemainus Road upgrades, including a roundabout at River Road and Henry Road, are nearing the completion stages and are on time to be completed by December 2020. Murchie Road construction will resume in early November as the permit has been received from the Archeology Branch. The sidewalk construction on Cowichan Lake Road from Somenos Road to Marsh Road has been delayed to allow for design and replacement of underground utilities.
- *Recreation* – Completion of the Cowichan Aquatic Centre retrofit is expected in December 2020. Partial opening of the Cowichan Aquatic Centre occurred in mid-October 2020.
- *Water Capital* – Beaumont Avenue water main replacement has been delayed due to an archeological investigation.
- *Sewer Capital* – For the JUB outfall relocation project, the receiving environment monitoring program is now complete, First Nations consultation is nearing completion, and the pre-discharge monitoring has started. The RFP for engineering services is to be posted by November 2020.

Recommendation

That Council accept the November 4, 2020, 3rd Quarter Financial Report prepared by the Manager of Budget and Infrastructure.

Attachments: 2020 Q3 Report
2020 Q3 Capital Presentation

Municipality of North Cowichan
General Operating Fund
Unaudited Statement of Operations

| | Q3 YTD 2020 | 2020 Budget | % Budget | Q3 YTD 2019 |
|---|--------------------------|------------------------|-----------------|--------------------------|
| Revenue | | | | |
| Taxation | 32,475,981 | 32,791,046 | 99% | 31,848,163 |
| Sales of service | 3,534,032 | 5,441,841 | 65% | 5,164,602 |
| Other revenue from own sources | 1,052,429 | 1,203,937 | 87% | 1,302,375 |
| Return on investments | 286,933 | 340,000 | 84% | 464,549 |
| Provincial and other government grants | 1,502,204 | 1,647,260 | 91% | 2,334,318 |
| | <u>38,851,579</u> | <u>41,424,084</u> | <u>94%</u> | <u>41,114,007</u> |
| Expenses | | | | |
| General Government Services | 4,494,381 | 6,039,605 | 74% | 4,429,284 |
| Protective services | 6,244,688 | 10,271,189 | 61% | 5,436,742 |
| Transportation services | 4,108,851 | 6,049,248 | 68% | 3,944,250 |
| Environmental health services | 2,112,360 | 2,685,330 | 79% | 1,849,109 |
| Environmental development services | 972,527 | 1,309,898 | 74% | 900,241 |
| Recreation, Cultural and Misc Services | 5,332,155 | 8,733,142 | 61% | 6,369,820 |
| Interest | 406,458 | 791,125 | 51% | 569,754 |
| Amortization | - | 7,405,200 | 0% | - |
| | <u>23,671,420</u> | <u>43,284,737</u> | <u>55%</u> | <u>23,499,200</u> |
| Annual Surplus (Deficit) | 15,180,159 | (1,860,653) | | 17,614,807 |
| Add back: Unfunded Amortization | - | 7,405,200 | 0% | - |
| Principal Payments on Debt | (238,401) | (907,453) | 26% | (397,601) |
| Transfer from/(to) Appropriated Surplus | 328 | 6,503,781 | 0% | 0 |
| Transfer from/(to) Reserve Funds | (5,161) | (1,136,640) | 0% | (1,327,987) |
| | <u>14,936,925</u> | <u>10,004,235</u> | | <u>15,889,219</u> |
| Transfer to Capital | (4,063,044) | (10,004,235) | 41% | (2,705,927) |
| | <u>10,873,881</u> | <u>-</u> | | <u>13,183,292</u> |

Municipality of North Cowichan
General Operating Fund
Revenue Details

| | Q3 YTD 2020 | 2020 Budget | % Budget | Q3 YTD 2019 |
|--|-------------------|-------------------|------------|-------------------|
| TAXATION | | | | |
| General Purposes | 30,959,674 | 30,957,598 | 100% | 30,011,983 |
| Utility Taxes 1% | 1,047,256 | 1,081,400 | 97% | 1,065,554 |
| Special Assessments | 211,870 | 199,648 | 106% | 202,288 |
| Grant-in-lieu Federal | 4,723 | 4,300 | 110% | 4,300 |
| Grant-in-lieu Provincial | 208,149 | 208,100 | 100% | 237,116 |
| Tax Penalties/Interest | 44,308 | 340,000 | 13% | 326,922 |
| | 32,475,981 | 32,791,046 | 99% | 31,848,163 |
| GENERAL SALES OF SERVICE | | | | |
| General Government Revenue | 98,057 | 124,400 | 79% | 96,755 |
| Protective Serv Rev | 97,427 | 326,450 | 30% | 134,812 |
| Fire Protection | 191,705 | 216,650 | 88% | 201,015 |
| Fire Protection-Misc | 1,647 | 29,000 | 6% | 1,423 |
| Transportation Serv Rev | 144,230 | 173,441 | 83% | 187,146 |
| Garbage | 1,266,646 | 1,389,900 | 91% | 1,170,330 |
| Cemetery Revenue | 109,746 | 127,870 | 86% | 116,354 |
| Forestry Revenue | 315,436 | 277,160 | 114% | 1,149,707 |
| Fuller Lake Arena | 92,592 | 256,573 | 36% | 144,775 |
| Community Recreation | 27,224 | 50,130 | 54% | 34,853 |
| Crofton Pool | - | 8,910 | 0% | 11,040 |
| Wharf Revenue | 151,930 | 189,340 | 80% | 187,620 |
| Public Works Equipment | - | 713,830 | 0% | - |
| Cowichan Aquatic Centre | 948,901 | 1,466,323 | 65% | 1,675,261 |
| Miscellaneous Revenue | 88,488 | 91,864 | 96% | 53,510 |
| | 3,534,032 | 5,441,841 | 65% | 5,164,602 |
| OTHER REVENUE FROM OWN SOURCE | | | | |
| Bus Licence | 162,880 | 146,000 | 112% | 153,370 |
| Com Vehicle Licence | 568 | - | N/A | 7,285 |
| Building Permit Fees | 423,538 | 440,830 | 96% | 599,405 |
| Development Fees | 41,350 | 90,783 | 46% | 76,950 |
| Engineering Fees | 115,226 | 152,000 | 76% | 209,575 |
| Dog Licences | 93,825 | 100,000 | 94% | 96,090 |
| Fines | 6,488 | 4,500 | 144% | 5,920 |
| Rentals | 200,308 | 269,824 | 74% | 151,055 |
| Insurance Proceeds | 8,246 | - | N/A | 2,725 |
| | 1,052,429 | 1,203,937 | 87% | 1,302,375 |
| RETURN ON INVESTMENT | | | | |
| Interest | 286,933 | 340,000 | 84% | 464,549 |
| UNCONDITIONAL GRANTS-PROV | 333,923 | 328,000 | 102% | 293,192 |
| CONDITIONAL GRANTS-FED | 1,104,840 | 1,104,000 | 100% | 1,980,127 |
| CONDITIONAL GRANTS-PROVINCIAL | 18,500 | 209,460 | 9% | 55,100 |
| CITY OF DUNCAN | 44,941 | 5,800 | 775% | 5,899 |
| CONDITIONAL GRANTS-OTHER | - | - | #DIV/0! | - |
| PROVINCIAL AND OTHER GOV'T GRANTS | 1,502,204 | 1,647,260 | 91% | 2,334,318 |
| TOTAL REVENUE | 38,851,579 | 41,424,084 | 94% | 41,114,007 |

Municipality of North Cowichan
General Operating Fund
Expense Details

| | Q3 YTD 2020 | 2020 Budget | % Budget | Q3 YTD 2019 |
|---|-------------------|-------------------|------------|-------------------|
| Expenses | | | | |
| GENERAL GOVERNMENT SERVICES | | | | |
| Legislative Services | 223,518 | 316,540 | 71% | 267,971 |
| General Administration | 3,832,307 | 5,180,392 | 74% | 3,566,445 |
| Common Services | 583,541 | 939,868 | 62% | 744,969 |
| Other General Government | (144,986) | (397,195) | 37% | (150,102) |
| | 4,494,381 | 6,039,605 | 74% | 4,429,284 |
| PROTECTIVE SERVICES | | | | |
| Police | 4,480,735 | 7,785,836 | 58% | 3,678,363 |
| Fire | 1,192,724 | 1,744,634 | 68% | 1,296,713 |
| Other | 571,228 | 740,719 | 77% | 461,665 |
| | 6,244,688 | 10,271,189 | 61% | 5,436,742 |
| TRANSPORTATION SERVICES | | | | |
| Administration | 1,302,728 | 2,057,644 | 63% | 1,276,298 |
| Road Transport | 2,806,122 | 3,991,604 | 70% | 2,667,952 |
| | 4,108,851 | 6,049,248 | 68% | 3,944,250 |
| ENVIRONMENTAL HEALTH SERVICES | | | | |
| Cemetery | 118,243 | 149,635 | 79% | 127,166 |
| Forestry | 798,116 | 940,600 | 85% | 843,695 |
| Garbage | 1,196,001 | 1,595,095 | 75% | 878,248 |
| | 2,112,360 | 2,685,330 | 79% | 1,849,109 |
| ENVIRONMENTAL DEVELOPMENT SERVICES | | | | |
| Economic Development | 118,247 | 116,220 | 102% | 112,670 |
| Planning | 854,280 | 1,193,678 | 72% | 787,572 |
| | 972,527 | 1,309,898 | 74% | 900,241 |
| RECREATION, CULTURAL AND MISC SERVICES | | | | |
| Administration | 143,888 | 197,718 | 73% | 98,073 |
| Arena | 632,851 | 968,871 | 65% | 661,693 |
| Chemainus Parks And Playgrounds | 260,169 | 436,761 | 60% | 313,811 |
| Crofton Parks And Playgrounds | 122,332 | 197,476 | 62% | 137,462 |
| Grants In Aid | 233,488 | 226,150 | 103% | 217,903 |
| Parks General | 113,194 | 219,573 | 52% | 153,624 |
| Regional Library | 1,150,426 | 1,533,901 | 75% | 1,113,843 |
| South End Parks And Playgrounds | 776,860 | 1,237,479 | 63% | 765,055 |
| Swimming Pools | 1,784,198 | 3,545,846 | 50% | 2,786,529 |
| Wharves | 114,749 | 169,367 | 68% | 121,828 |
| | 5,332,155 | 8,733,142 | 61% | 6,369,820 |
| INTEREST | 406,458 | 791,125 | 51% | 569,754 |
| AMORTIZATION | - | 7,405,200 | 0% | - |
| TOTAL EXPENSE | 23,671,420 | 43,284,737 | 55% | 23,499,200 |

Municipality of North Cowichan
DCC Reserve Balances

| Q3 YTD | Opening Balance | Budget Expenditures | Budget Contributions | Budgeted Closing Balance | Q3 YTD |
|------------------------|--------------------|------------------------|-------------------------|--------------------------------|-------------------|
| 2020 | Jan 1, 2020 | 2020 | 2020 | Dec 31, 2020 | 2020 |
| DCC Parks | 839,540 | | | 839,540 | 1,023,811 |
| DCC Roads | 1,489,712 | | | 1,489,712 | 2,072,547 |
| DCC Chemainus Roads | 224,274 | (96,000) | | 128,274 | 132,156 |
| DCC Chemainus Water | 465,234 | | | 465,234 | 555,879 |
| DCC Chemainus Sewer | 242,785 | | | 242,785 | 280,974 |
| DCC Crofton Water | 133,252 | | | 133,252 | 138,588 |
| DCC Crofton Sewer | 75,871 | | | 75,871 | 80,807 |
| DCC South End Drainage | 372,872 | | | 372,872 | 433,197 |
| DCC South End Water | 2,114,860 | | | 2,114,860 | 2,391,920 |
| DCC South End Sewer | 5,890,492 | | | 5,890,492 | 6,276,497 |
| | 11,848,892 | (96,000) | - | 11,752,892 | 13,386,376 |

Municipality of North Cowichan
Reserve Balances

| Q3 YTD | Opening | Budget | Budget | Budgeted | |
|------------------------------------|-------------------|--------------------|------------------|-------------------|-------------------|
| | Balance | Expenditures | Contributions | Closing | Q3 YTD |
| 2020 | Jan 1, 2020 | 2020 | 2020 | Dec 31, 2020 | 2020 |
| Fire Trucks | 1,188,830 | (1,006,700) | 410,000 | 592,130 | 924,395 |
| Garbage Trucks | 962,336 | | | 962,336 | 980,421 |
| Office Vehicles | 272,880 | (87,500) | | 185,380 | 278,009 |
| Chemainus Off-Street Parking | 167,137 | (50,000) | | 117,137 | 170,278 |
| Machinery & Equipment | 1,134,952 | (1,125,000) | | 9,952 | 1,149,241 |
| Parks Land Acquisition | 553,755 | | | 553,755 | 620,147 |
| Park Land Development | 221,194 | | | 221,194 | 225,351 |
| Maple Bay Sewer | 91,820 | | | 91,820 | 93,546 |
| Self Insurance | 123,652 | | 50,000 | 173,652 | 125,975 |
| Land Sales | 4,217,773 | (601,661) | | 3,616,112 | 2,910,783 |
| Affordable Housing | 42,918 | | | 42,918 | 75,207 |
| Cowichan Aquatic Centre | 452,426 | | 125,000 | 577,426 | 460,929 |
| Evans Park | 171,339 | | | 171,339 | 174,559 |
| Fuller Lake Arena | 72,537 | | | 72,537 | 73,900 |
| Harbours Chemainus and Crofton | 433,037 | | 9,190 | 442,227 | 441,175 |
| Mural Protection | 39,797 | | | 39,797 | 40,545 |
| Energy Use/Emissions Reduction | 494,610 | (340,300) | 157,700 | 312,010 | 495,993 |
| Gas Tax | 1,641,753 | | | 1,641,753 | 1,672,607 |
| Quamichan Lake | 52,511 | | 67,000 | 119,511 | 84,981 |
| Technology | - | | 62,000 | 62,000 | - |
| Local Area Service | 1,447,229 | | | 1,447,229 | 1,466,397 |
| Forestry | 2,145,499 | (661,940) | 20,000 | 1,503,559 | 2,185,819 |
| Cemetery | 406,419 | | | 406,419 | 421,381 |
| Agricultural | 265,031 | (50,000) | 30,000 | 245,031 | 270,011 |
| Gravel Pits | 523,702 | | | 523,702 | 533,544 |
| Infrastructure Replacement Reserve | 1,028,913 | | 250,000 | 1,278,913 | 1,048,249 |
| | 18,152,050 | (3,923,101) | 1,180,890 | 15,409,839 | 16,923,443 |

CAPITAL UPDATE

SEPTEMBER 2020 YTD

General Government Services

| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|---------------------------------|------------------------------------|----------------|------------|-------------------|
| Office Equip Main Floor | 11,777 | 10,000 | 118% | Complete |
| Office Vehicles | - | 107,500 | 0% | |
| Cost of Sale of Lots | - | - | N/A | |
| Total General Government | 11,777 | 117,500 | 10% | |



Municipal Owned Property



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|---|------------------------------------|----------------|----------|---|
| Replace Muni Hall HVAC | 16,400 | 200,000 | 8% | Design Phase now, Construction spring 2021 |
| Crofton Fire Hall Genertor | - | 65,000 | 0% | On hold due to feasibility |
| South End Fire Hall Re-Roof | - | 130,000 | 0% | Budgeted for 2021 |
| Update Controls - Chem Tr-Service HVAC | - | 15,000 | 0% | Project to commence in 2021 |
| Upgrade Operations Yard Security System | - | 30,000 | 0% | Project to commence with new building manager in fall/winter 2020 |
| Remediate Crofton Fire Hall - Feasibility study | 9,990 | 200,000 | 5% | Feasibility study complete. Design deferred to 2021. |
| Feasibility Study Public Works Building | - | 200,000 | 0% | Ongoing, waiting for space analysis, completion spring 2021 |
| Corporate Services IT Downstairs Reorg | 13,823 | 40,000 | 35% | To be completed by the end of the year. |
| Operations Building Reno/Expansion Design | - | 50,000 | 0% | Ongoing, waiting for space analysis, completion spring 2021 |

Municipal Owned Property



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|---------------------------------------|------------------------------------|------------------|-----------|-------------------|
| South End Fire Hall Heating Units | 9,920 | - | N/A | |
| Muni Hall & P/W Energy Projects | - | 156,000 | 0% | |
| Total Municipal Owned Property | 50,133 | 1,086,000 | 5% | |

Information Services



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|-----------------------------------|------------------------------------|----------------|------------|---|
| Enterprise Software | 34,485 | 95,477 | 36% | Ongoing, Partial deferral to 2021 to complete the project |
| Server Upgrade | 23,404 | 188,702 | 12% | RFP in development, completion by the end of year |
| Document Mgmt | 13,720 | 35,968 | 38% | Ongoing, completion by the end of year |
| Printers | 10,486 | 45,000 | 23% | Ongoing, completion by the end of year |
| Network Equipment Repl | - | 30,038 | 0% | Ongoing, completion by the end of year |
| Council Chambers Audio Video | 23,545 | 25,000 | 94% | Ongoing, completion by the end of year |
| Total Information Services | 82,095 | 395,185 | 21% | |

Community Development



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|------------------------------------|------------------------------------|------------------|-----------|---|
| Crofton Waterfront/Ramp | - | 30,000 | 0% | Cancelled due to COVID-19 |
| Chemainus Boardwalk | - | 100,000 | 0% | On hold |
| Parking Lot Old Chem FH | - | 146,440 | 0% | On hold, construction staging area for Housing construction |
| Sportsplex Field House | 15,445 | 1,456,000 | 1% | Architect hired, design is progress. |
| Total Community Development | 15,445 | 1,732,440 | 1% | |

Police and Other



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|-------------------------------|------------------------------------|------------------|-----------|---|
| RCMP Building Canada Ave | - | 50,000 | 0% | Construction design to be completed late fall. Site works to commence early 2021. |
| New RCMP Building | 306,668 | 5,050,000 | 6% | |
| Total Police and Other | 306,668 | 5,100,000 | 6% | |

Fire Halls



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|-------------------------|------------------------------------|------------------|------------|---|
| Chem F/H Equip BI3024 | 29,282 | 27,700 | 106% | Complete |
| Crof F/H Equip BI3024 | - | - | N/A | |
| MB F/H Equip BI3024 | 12,421 | 19,200 | 65% | Ongoing |
| SE F/H Equip BI3024 | - | - | N/A | |
| Fire Vehicle Replacemt | 284,235 | 1,006,700 | 28% | RFP for new pumper truck expected early fall. |
| Total Fire Halls | 325,938 | 1,053,600 | 31% | |

Transportation



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|---|------------------------------------|----------------|----------|---|
| Engineering Dept Capital | 22,303 | 30,000 | 74% | Ongoing |
| Crosswalk Lighting - Maple Bay Rd @ Stonehouose Way | 53,858 | 23,000 | 234% | Completion by November 30. |
| Crosswalk Lighting - Victoria Rd / Garner St | 14,732 | 17,000 | 87% | Complete |
| Crosswalk Lighting - Donnay Dr @ Maple Bay School | 13,483 | 20,400 | 66% | Complete |
| Street Light Replacement | 7,462 | 16,000 | 47% | Ongoing |
| TCH Multi-Use Trail | 487,704 | 350,000 | 139% | Complete, Additional truck pullout added and funded by MOTI |
| Canada Ave S Bike Lane | 5,000 | 400,000 | 1% | RFP for design to go out early fall |
| Chem/River Rd Roundabout | 384,099 | 570,000 | 67% | Under construction, to be completed by December 2020 |
| Canada Ave Settlement Repair | - | 412,500 | 0% | RFP for design to go out early fall |

Transportation Continued



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|------------------------------|------------------------------------|----------------|----------|---|
| Murchie Rd Construction | 34,294 | 552,000 | 6% | Permit received from Archeology branch. Construction to commence in the 4th quarter 2020. |
| Chem Rd R/W & Telus Poles | 377,803 | 247,500 | 153% | Under construction, to be completed by December 2020 |
| Chem/River/Henry Rd Imprvmts | 2,710,954 | 2,905,000 | 93% | Under construction, to be completed by December 2020 |
| Lakes Rd Bridge Repair | - | 75,000 | 0% | Deferred to 2021 |
| Sherman Rd SW PH 3 | 5,000 | 10,000 | 50% | Right of way to be purchased in late fall |
| Ford & Drinkwater Imp | - | 240,000 | 0% | Construction deferred to early 2021. |
| Cow Lk Rd S/W to Marsh | 27,515 | 180,000 | 15% | Completion deferred to 2021 for utility replacements |
| Gibbins Rd Overlay - 500m | 95,183 | 100,000 | 95% | Complete |

Transportation Continued



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|--------------------------------|------------------------------------|------------------|------------|-------------------------------------|
| Unallocated Drainage | - | 12,500 | 0% | |
| Chemainus Rd Drain | 168,985 | 230,000 | 73% | Complete |
| Woodgrove Way Drain | 34,212 | 20,000 | 171% | Complete |
| Chem Rd Drain Cedar-Fir | 68,864 | 80,000 | 86% | Complete |
| Henry Rd Drain @ MB Parking | 24,542 | 45,000 | 55% | Complete |
| Elkington Ave Drain Repl | - | 75,000 | 0% | Deferred to 2021 for re- design. |
| Menzies Culvert Repl | - | 30,000 | 0% | On hold |
| Mach&Equip P/W | 332,330 | 1,125,000 | 30% | Ongoing throughout the year. |
| Canada Ave Floodwall | - | 105,000 | 0% | |
| Total Transportation | 4,868,323 | 7,870,900 | 62% | |

Recreation



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|----------------------------|------------------------------------|----------------|----------|--|
| FL Arena Prk Lot Renew | 270 | 85,000 | 0% | Expected completion in November 2020. Engineering and design only, Replacement in 2021. |
| Fuller Lake Arena Roof | 89,875 | 100,000 | 90% | |
| FL Arena Security System | 68,832 | 51,000 | 135% | Complete |
| Cross Trail | 4,938 | 15,500 | 32% | May be completed in October to December. |
| Crofton Seawalk | 538 | 64,650 | 1% | To be tendered by November 2020. |
| Kin Beach Gazebo | 9,340 | 25,000 | 37% | Waiting on update from 3 rd party funder. |
| Fairview Way Plgrnd Rpl | - | 22,000 | 0% | Postponed to 2021 |
| Crof Pool Filtration | - | 20,000 | 0% | postponed to 2021 |
| Herd Rd Tennis/Pickle Ball | 28,318 | 25,000 | 113% | Complete |

Recreation Continued



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|--------------------------|------------------------------------|----------------|----------|---|
| Kin Beach Pk Washroom | 10,491 | 125,000 | 8% | Design 98% complete, deferred to 2021 due to archaeological requirements. |
| Evans Pk Barn Upgd | 8,799 | 50,000 | 18% | Complete |
| Waterwheel Park Lighting | 6,500 | 80,000 | 8% | Deferred to 2021 Design to be completed. Anticipate install in 4th quarter 2020 |
| Park Wayfinding | - | 10,000 | 0% | |
| Cemetery Rd Rebuild | 40,270 | 20,000 | 201% | Completed |
| Manley to Herd Trail | 12,239 | 15,000 | 82% | Completed |
| Evans/Sherman Field Upgd | - | 20,000 | 0% | To be completed in the 4th quarter 2020 |
| Fuller Lake Septic | - | 25,000 | 0% | Postponed to 2021 |
| FLA Interior Re-Lamping | 26,792 | 100,000 | 27% | Complete |

Recreation Continued



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|------------------------------------|------------------------------------|------------------|------------|---|
| Replace Vehicle | 24,610 | 30,000 | 82% | Vehicle purchased |
| Aquatic Ctr-Fitness Mach&Equip | - | 22,500 | 0% | Expected to be complete November 2020 |
| Wave generator fan / compressor | - | 21,000 | 0% | Expected to be complete November 2020 |
| Swirl Pool heater | - | 12,000 | 0% | Expected to be complete November 2020 |
| Security System Upgr | 65,192 | 72,600 | 90% | Anticipate completion October 2020 |
| Facility Retrofit Const | 1,573,346 | 2,705,410 | 58% | In progress. Anticipate final completion end of December 2020 |
| UV upgrades | - | 15,000 | 0% | Expected to be complete November 2020 |
| Replacement Pumps | - | 22,000 | 0% | Expected to be complete November 2020 |
| Total Recreation | 1,970,349 | 3,753,660 | 52% | |

Water Capital



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|---|------------------------------------|----------------|----------|---|
| Smiley Rd Watermain | 11,574 | 465,000 | 2% | RFP to go out by the end of October 2020. |
| Chemainus Rd to River | 606,714 | 685,000 | 89% | Complete |
| Holyoak Lake Release and Monitoring | 192 | 100,000 | 0% | On hold |
| Crofton Rd/Chaplin Rd | 91,680 | 70,000 | 131% | Complete |
| Roberts St / Arthur Watermain | - | 100,000 | 0% | |
| TCH Water Trunk Main Beverly to Drinwater | 21,577 | 600,000 | 4% | Deferred to 2021 |
| Beaumont Ave Watermain | 7,992 | 380,000 | 2% | Construction deferred to 2021. |
| South End Emergency Supply | - | 130,000 | 0% | Deferred to 2021 |

Water Capital Continued



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|-----------------------------------|------------------------------------|------------------|------------|--|
| Lakeview Pump Station Replacement | - | 25,000 | 0% | Deferred to 2021 Emergent replacement, to be complete November 2020. |
| Camass PI Water main Replacement | 25,218 | - | N/A | |
| Total Water Capital | 739,730 | 2,555,000 | 29% | |

Sewer Capital



| Project | Committed September 2020 YTD | 2020 Budget | % Budget | Status of Project |
|---|------------------------------------|------------------|-----------|---|
| Chemainus Rd to Victoria Rd Sewer Replacement | 28,769 | 120,000 | 24% | Complete |
| Chemaius Sewer Unallocated Misc Pipe Repl | - | 130,700 | 0% | Unallocated for emergency replacement |
| Crofton Sewer Unallocated Misc Pipe Repl | - | 200,000 | 0% | Unallocated for emergency replacement |
| Maple Bay Rd at Churchill Pump Station | - | 100,000 | 0% | Deferred to 2021 |
| JUB Capital | 141,944 | 1,183,765 | 12% | Consultations almost complete. RFP for engineering services to be posted in 4 th quarter 2020. |
| S/E Sewer Unallocated Misc Pipe Repl | - | 400,000 | 0% | Unallocated for emergency replacement |
| Maple Bay Sewer Treatment Plant | - | 25,000 | 0% | |
| Total Sewer Capital | 170,713 | 2,159,465 | 8% | |

Total Capital Projects

| Project | Committed September 2020 YTD | 2020 Budget | % Budget |
|------------------------|------------------------------------|-------------|----------|
| Total Capital Projects | 8,541,171 | 25,823,750 | 33% |



Total Capital Projects

