



WHISTLER

AGENDA

SPECIAL MEETING OF MUNICIPAL COUNCIL
FRIDAY, JUNE 18, 2010, STARTING AT 8:30 AM

In the Flute Room at Municipal Hall
4325 Blackcomb Way, Whistler, BC V0N 1B4

APPROVAL OF AGENDA

Approval of the Regular Council agenda of June 18, 2010.

ADMINISTRATIVE REPORTS

Modification of
Cheakamus Crossing
Hostel Development
Covenant
Report No. 10-055
File No. RZ. 1029

That Council consider adoption of Housing Agreement Bylaw (1035 Legacy Way) No. 1944, 2010;

That Council approve the Modification of Development Covenant CA817875 as per the attached "Modification of Development Covenant" document attached as Appendix "B";

That Council authorize the Mayor and Corporate Officer to execute all legal documents associated with the Modification of Development Covenant CA817875;

That Council approve the Option/Right of First Refusal modification covenant attached as Appendix "C";

That Council authorize the Mayor and Corporate Officer to execute all legal documents associated with the covenant to modify the Option/Right of First Refusal;

That Council authorize staff to file a notice of housing agreement on the land title for the subject property;

That Council authorize the Mayor and Corporate Officer to execute all documents related to the conveyancing of the subject property to the True North Hostelling Association;

That Council approve the driveway right-of-way and further authorize the Mayor and Corporate Officer to execute all documents including plant related to the registration of the driveway right-of-way; and further;

That Council approve the Form C covenant attached as Appendix "D";

That Council authorize the Mayor and Corporate Officer to execute the Form C covenant attached as Appendix "D";

That Council authorize the Mayor and Corporate Officer to execute any other legal

documents including but not limited to: covenants, plans, and agreements specifically related to the matters covered in this staff report but that are not specifically identified above; and further

That Council amends the Five-Year Financial Plan 2010-2014 Bylaw No. 1934, 2009 to provide for this expenditure in the amount of \$12,000.00, funded by two percent Additional Hotel Room Tax.

BYLAWS FOR ADOPTION

Housing Agreement
Bylaw (1035 Legacy Way)
No. 1944, 2010

Housing Agreement Bylaw (1035 Legacy Way) No. 1944, 2010

The purpose of Housing Agreement Bylaw (1035 Legacy Way) No. 1944, 2010 is to authorize the Municipality to enter into a housing agreement to ensure that provisions are in place restricting the use of the Hostel to employee housing if they are not used for their intended uses.

ADJOURNMENT



REPORT | ADMINISTRATIVE REPORT TO COUNCIL

PRESENTED: June 18, 2010
FROM: Community Life
SUBJECT: MODIFICATION OF CHEAKAMUS CROSSING HOSTEL DEVELOPMENT COVENANT

REPORT: 10 - 055
FILE: RZ - 1029

COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER:

That the recommendation of the General Manager of Community Life be endorsed.

RECOMMENDATION

That Council consider adoption of Housing Agreement Bylaw (1035 Legacy Way) No. 1944, 2010;

That Council approve the Modification of Development Covenant CA817875 as per the attached "Modification of Development Covenant" document attached as Appendix "B";

That Council authorize the Mayor and Corporate Officer to execute all legal documents associated with the Modification of Development Covenant CA817875;

That Council approve the Option/Right of First Refusal modification covenant attached as Appendix "C";

That Council authorize the Mayor and Corporate Officer to execute all legal documents associated with the covenant to modify the Option/Right of First Refusal;

That Council authorize staff to file a notice of housing agreement on the land title for the subject property;

That Council authorize the Mayor and Corporate Officer to execute all documents related to the conveyancing of the subject property to the True North Hostelling Association;

That Council approve the driveway right-of-way and further authorize the Mayor and Corporate Officer to execute all documents including plant related to the registration of the driveway right-of-way; and further;

That Council approve the Form C covenant attached as Appendix "D";

That Council authorize the Mayor and Corporate Officer to execute the Form C covenant attached as Appendix "D";

That Council authorize the Mayor and Corporate Officer to execute any other legal documents including but not limited to: covenants, plans, and agreements specifically related to the matters covered in this staff report but that are not specifically identified above; and further

That Council amends the Five-Year Financial Plan 2010-2014 Bylaw No. 1934, 2009 to provide for this expenditure in the amount of \$12,000.00, funded by two percent Additional Hotel Room Tax.

REFERENCE

Street Address:	1035 Legacy Way
Legal Description:	Lot 13, District Lot 8073, Group 1 New Westminster District Plan EPP277
Zoning:	R-LCCD (Residential – Lower Cheakamus Comprehensive Development)
Owner:	Resort Municipality of Whistler
Appendix “A”	Existing development covenant “CA817875”
Appendix “B”	Covenant to modify the existing covenant development covenant “CA817875”
Appendix “C”	Covenant to modify the Option/Right of First Refusal standard charge terms
Appendix “D”	Form C covenant

NATURE OF REQUEST

To seek Council’s approval for the various legal document that must be approved/modified/executed in order to sell the subject property (commonly know as the Hostel at Cheakamus Crossing) to the “True North Hostelling Association”.

PURPOSE OF REPORT

To provide an overview of the legal documents that has to be approved/modified/executed in order to sell the subject property (commonly known as the Hostel at Cheakamus Crossing) to the “True North Hostelling Association”.

DISCUSSION

The Resort Municipality of Whistler is preparing to sell the Hostel at Cheakamus Crossing to the “True North Hostelling Association”. Due to the terms of the sale and the recent transfer of money to the Province of British Columbia to pay for the commercial Gross Floor Area in the Hostel Building, a cascade of covenant modifications was set in motion. The primary purpose of these various covenant modifications is to ensure that the various legal documents related to the transfer of this property are consistent with each other, the terms of the sale, and the agreement with the Province of British Columbia related to the use of the property.

Modification of the Development Covenant (Appendix “B”)

In the absence of parcel specific zoning, the land that the hostel is located on is subject to a section 219 covenant that restricts the permitted uses of the land and the gross floor area allowed for each use. This covenant will be discharged when the parcel specific zoning bylaw (Bylaw 1937, 2010) is adopted.

There are three significant modifications being proposed to the existing covenant. First, “employee housing” is being added as a permitted use. This is to ensure that in the event that the hostel no longer functions as a hostel, the only uses allowed will be “employee housing”. There is an exception for the ground floor where the commercial uses will be allowed to continue. This is consistent with good planning practices since this is an area where ground floor commercial should be encouraged.

The second proposed change is to add, “professional office” to the list of permitted uses. The Zoning Bylaw defines professional office as:

“professional offices” means premises for the provision of professional, management, administrative, consulting, financial and health services and includes but is not limited to the offices of lawyers, accountants, engineers, architects, doctors and dentists, and offices for the provision of health services of a preventative, diagnostic, treatment, therapeutic, rehabilitative or counselling nature, but does not include premises for the provision of medical treatment services or veterinary services.

When the Planning Department originally examined the land use strategy for Cheakamus Crossing, it felt that the uses locate in the hostel should be those uses that both visitors staying at the hostel and residents of Cheakamus Crossing would be most likely to use on a daily basis. “Professional offices” was not included in the original land uses permitted on the hostel site because it was felt that visitors to the hostel would not likely uses “professional offices” as much as “local service commercial”, “local personal service”, or “restaurants”. At this time, the impending sale of the property to the “True North Hostelling Association” is dependent on the proposed covenant modification, including the addition of “professional offices” to the list of permitted uses. Staff will conduct a more thorough analysis of the potential long term impact of adding “professional offices” prior to bringing forward the concomitant amendments to the proposed parcel specific zone at which time Council will also be able to reflect on the proposed addition of “professional offices” to the list of permitted uses for the hostel site. “Professional offices” are permitted uses on some of the undeveloped parcels of land in the Cheakamus Crossing neighbourhood.

Third, the proposed modification limits the commercial uses outline above to 66.9 square metres of gross floor area. This is consistent with the compensation agreement worked out with the Province of British Columbia whereby the municipality paid the province for commercial gross floor area that was not being used for employee housing or hostel use. The proposed covenant modification does allow for the hostel to operate a café with a gross floor area of between 33.1 square metres and 133.1 square metres. This is in addition to the 66.9 square metres of commercial uses.

Employee Housing Right of First Refusal Option (Appendix “C”)

In order to ensure consistency amongst the various documents associated with this land transfer it is necessary to modify the Standard Charge Terms for the “Employee Housing Right of First Refusal Option” as indicated in the covenant attached to this report as Appendix “C”.

This document establishes two “previous sale prices”, one if the entire building is sold and one if portions of the building are sold such as strata lots. If the entire building is sold then the “previous sale price” shall be the “fair market value of the Land as set out in the Form A Freehold transfer registered in the Land Title Office in respect of such Previous Sale”. If a portion of the building is sold then the “previous sale price” shall be \$250.00.

This document also states that , “except the commercial space”, the amended Standard Terms will not apply as long as the land “is used solely as a non-profit hostel for temporary accommodation of tourist and visitors with associated restaurant/café”. The commercial space is exempted in order to preserve commercial uses in the Cheakamus Crossing neighbourhood.

Form C Covenant (Appendix “D”)

This covenant modifies the Standard Charge Terms filed under number ST080100 in order to ensure that they are consistent with all other documents associated with the transfer of the Hostel to the True North Hostelling Association.

WHISTLER 2020 ANALYSIS

W2020 Strategy	TOWARD Descriptions of success that resolution moves us toward	Comments
Resident Housing	Effective financial and legal tools exist to develop and manage resident restricted housing affordability in perpetuity.	The proposed modification of the covenant will help ensure that if the hostel uses are discontinued they will have to be replaced by “employee housing”.

W2020 Strategy	AWAY FROM Descriptions of success that resolution moves away from	Mitigation Strategies and Comments
N/A		

OTHER POLICY CONSIDERATIONS

The proposed covenant modification does not contravene relevant policies.

BUDGET CONSIDERATIONS

The sale of the subject property to the True North Hostelling Association is incumbent upon consistency between the various legal documents that are associated with the transfer of this property to the True North Hostelling Association. To this end it has been necessary to modify a number of documents through the use of covenant modifications.

Staff have required extensive legal advice in order to ensure that all the documents are consistent with each other and with the various agreements associated with the sale of this property. It is anticipated that the legal bill associated with this file will be approximately \$12,000.00. This is money that was not budgeted for. Section 165 (2) of the Community Charter permits the Five-Year Financial Plan to be amended by bylaw at any time. This report seeks Council’s approval of the amendment. Consistent with this resolution, amended bylaws will be brought forward, accumulating changes to date, in a mid-year amendment scheduled in the fall of 2010.

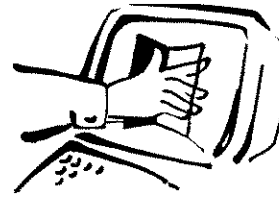
COMMUNITY ENGAGEMENT AND CONSULTATION SUMMARY

There has been no community engagement or consultation related to the proposed modification any of the legal documents associated with the transfer of the Hostel to the True North Hostelling Association. However, a public hearing will be required in order to amend the Zoning Bylaw to add “employee housing” and “professional offices” to the list of permitted uses for the subject property and to amend the gross floor areas associated with the various uses.

Respectfully submitted,

Bill Brown
MANAGER OF COMMUNITY PLANNING
for
Bob MacPherson
GENERAL MANAGER OF COMMUNITY LIFE

BC OnLine



BC OnLine Land Title Internet Service
 Provided in co-operation with
 Land Title and Survey Authority

LTSA - DOCUMENT RETRIEVAL		REF # 024020	REQUESTED: 2010-06-16 13:11
CLIENT NAME:	RESORT MUNICIPALITY OF WHISTLER		
ADDRESS:	TAX DEPARTMENT WHISTLER BC VON 1B4		
PICK-UP INSTRUCTIONS:			
USER ID: PB34453	APPL-DOC # CA817875	VA Registered	RCVD:2008-06-16
ACCOUNT: 328313			
FOLIO BBROWN			
REMARKS:			

Help Desk Victoria (250) 953-8200
 In B.C. 1-800-663-6102
 Administration Office ... (250) 953-8250
 Fax Number (250) 953-8222

Persons who need to rely on a plan for legal purposes must examine the official version at the Land Title Office in which the plan is deposited. However, plans with plan numbers beginning with the letters EPP or EPS are electronic plans which constitute the official version.

NEW WESTMINSTER LAND TITLE OFFICE

Appendix "A"

LAND TITLE ACT

Jun-16-2008 15:42:52.025

CA817875

FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 10 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Russell Gregg
Benson NC9PE1

Digitally signed by Russell Gregg
Benson NC9PE1
DN: cn=Russell Gregg Benson
NC9PE1, o=CA, ou=Verify
ID at: www.juricert.com/LKUP.cfm?
id=NC9PE1
Date: 2008.06.11 15:38:28 -0700

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Roxanne MacGregor, McCarthy Tétrault LLP

1300 - 777 Dunsmuir Street

Phone: (604) 643-7100

Client No. 010452

Doc Id: 114466 (C.10(I))

Vancouver

BC V7Y 1K2

Document Fees: \$64.65

Deduct LTO Fees? YES ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

NO PID NMBR LOT 13, DL 8073, GP 1, NWD, PLAN EPP277

STC? YES

Related Plan Number: **EPP277**

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

SECTION 219

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

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

RESORT MUNICIPALITY OF WHISTLER

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

SEE SCHEDULE

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

Y	M	D
08	06	11

Laurie-Anne Schimek
Commissioner for Taking Affidavits in
British Columbia
4325 Blackcomb Way
Whistler, BC V0N 1B4
As to Both Signatures

RESORT MUNICIPALITY OF
WHISTLER, by its authorized
signatory:

Mayor: Ken Melamed

Corporate Officer: Shannon Story

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM D****EXECUTIONS CONTINUED**

PAGE 2 of 10 pages

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
08	06	11

Laurie-Anne Schimek
Commissioner for Taking Affidavits in
British Columbia
4325 Blackcomb Way
Whistler, BC V0N 1B4
As to Both Signatures

RESORT MUNICIPALITY OF
WHISTLER, by its authorized signatory:

Mayor: Ken Melamed

Corporate Officer: Shannon Story

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 3 of 10 pages

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

6. TRANSFEREE(S): (INCLUDING POSTAL ADDRESS(ES) AND POSTAL CODE(S)):*

RESORT MUNICIPALITY OF WHISTLER, a municipality incorporated under the Resort Municipality of Whistler Act, S.B.C. 1975, c.67 and having its address at 4325 Blackcomb Way, Whistler, British Columbia, V0N 1B4

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

SECTION 219 - DEVELOPMENT COVENANT

THIS AGREEMENT is dated for reference the 15th day of May, 2008

BETWEEN:

RESORT MUNICIPALITY OF WHISTLER,
4325 Blackcomb Way, Whistler, British Columbia, VON 1B4

(the “Owner”)

AND:

RESORT MUNICIPALITY OF WHISTLER,
4325 Blackcomb Way, Whistler, British Columbia, VON 1B4

(the “Municipality”)

WHEREAS:

- A. The Owner is the registered owner of the lands described in item 2 of the *Land Title Act* Form C General Instrument to which this Covenant is attached and which forms part hereof (the “Lands”);
- B. Section 219 of the *Land Title Act* (British Columbia) permits the registration of a covenant of a negative or positive nature in respect of the use of land, or buildings on land, the subdivision of land and the preservation of land, or a specified amenity on the land; and
- C. The Zoning Bylaw (as hereinafter defined) prohibits the parent parcel of the Lands from being subdivided unless the density regulations applicable thereto are made applicable to the individual parcels, either by way of an amendment to the zoning or by means of a covenant registered under section 219 of the *Land Title Act* (British Columbia) such that the density limits set out in the zoning cannot be exceeded in the development of the Lands as a whole.

NOW THEREFORE THIS COVENANT WITNESSETH that in consideration of the sum of ONE (\$1.00) DOLLAR now paid by the Municipality to the Owner and of other good and valuable consideration, (the receipt and sufficiency of which are hereby acknowledged) the Owner and the Municipality hereby covenants and agree as follows:

Definitions

1. In this Covenant:
 - (a) **"Front Parcel Line"** has the meaning given to that term in the Zoning Bylaw;
 - (b) **"Gross Floor Area"** has the meaning given to that term in the Zoning Bylaw;
 - (c) **"Height"** has the meaning given to that term in the Zoning Bylaw;
 - (d) **"Rear Parcel Line"** has the meaning given to that term in the Zoning Bylaw;
 - (e) **"Side Parcel Line"** has the meaning given to that term in the Zoning Bylaw; and
 - (f) **"Zoning Bylaw"** means the Whistler Zoning and Parking Bylaw 303, as amended and in effect on the date hereof.

Restrictions on Land Use and Development

2. The Owner covenants and agrees with the Municipality that, pursuant to section 219 of the *Land Title Act*, as amended:
 - (a) the Lands shall not be subdivided, built on, or used except in accordance with the following terms and conditions:
 - (i) despite the other uses permitted in the Zoning Bylaw, the Lands shall only be used for the following:
 - (A) hostel;
 - (B) local service commercial, local personal service, restaurant (excluding drive-in and window sales); and
 - (C) retail,
 as such terms are defined in the Zoning Bylaw;
 - (ii) the uses permitted pursuant to paragraphs 2(a)(i)(B) and (C) shall only be permitted on the ground floor of any building built or erected on the Lands;
 - (iii) the total development that may be constructed on the Lands shall not exceed:
 - (A) with respect to hostel uses permitted pursuant to paragraph 2(a)(i)(A), 2,610 square metres of Gross Floor Area;
 - (B) with respect to the uses permitted pursuant to paragraphs 2(a)(i)(B) and 2(a)(i)(C), not less than 100 metres of Gross Floor Area and

Development Covenant (Lot 13)

not more than 200 square metres of Gross Floor Area of which retail uses permitted pursuant to paragraph 2(a)(i)(C) may not be more than 65 percent of the Gross Floor Area of such other uses; and

- (iv) the height of any building on the Lands shall not exceed 16 metres; and
- (v) no part of any building on the Lands shall be located such that the horizontal distance between any part thereof and the Rear Parcel Line, the Front Parcel Line and any Side Parcel Line of the Lands is less than the corresponding minimum setback distance set out in the following table:

Parcel Line	Minimum Setback (m)
Side	6.0
Rear	6.0
Front	2.0

- (b) the Lands shall not be subdivided except by way of strata plan (other than a bare land strata plan) pursuant to the Strata Property Act (British Columbia).
3. Upon written request by the Owner to the Municipality prior to the issuance of a development permit or building permit for the Lands, and subject always to the provisions of Zoning Amendment Bylaw (Residential – Lower Cheakamus Comprehensive Development) No. 1734, 2006 (the “**Zoning Amendment Bylaw**”), the permitted uses and amount of Gross Floor Area that may be constructed on the Lands can be reallocated between the Lands and other parcels to which the Zoning Amendment Bylaw applies by registering an amendment this Covenant and the corresponding covenant or covenants registered against the other parcels affected by such reallocation.
 4. This Covenant shall restrict the subdivision and use of the Lands in the manner provided herein notwithstanding any right or permission to the contrary contained in any zoning or land use bylaw of the Municipality.

Discharge

5. Notwithstanding section 3 but provided the requirements of this Covenant have been complied with or any breach hereof has been remedied to the Municipality’s satisfaction, upon the adoption by the Municipality of a bylaw amending the existing zoning for the Lands to incorporate or otherwise reflect the restrictions set out in section 2, all necessary approvals of such bylaw having been given by the Province of British Columbia and receipt by the Municipality of a written request from the Owner accompanied by a registrable discharge of this Covenant, the Municipality will execute such discharge, in registrable form, and provide the same to the Owner. All costs associated with the preparation and registration of the discharge will be borne by the Owner.

Application

6. The effect of the restriction in subsection 2(b) is suspended during the time Resort Municipality of Whistler is the registered owner of the Lands, and will immediately have effect upon Resort Municipality ceasing to be the registered owner of the Lands.

Indemnity and Release

7. The Owner, on behalf of itself and its heirs, executors, administrators, successors and assigns does hereby remise, release and forever discharge, and indemnify and save harmless, the Municipality and its elected officials, officers, employees, servants or agents from and against all manner of losses, damages, costs, actions, suits, debts, accounts, claims and demands which the Municipality or any of its elected officials, officers, employees, servants or agents, may suffer or incur or be put to arising out of or in connection with any breach of any covenant or agreement herein on the part of the Owner.

Runs With Land

8. Every obligation and covenant of the Owner in this Covenant constitutes both a contractual obligation and a covenant granted under section 219 of the *Land Title Act* in respect of the Lands and this Covenant burdens the Lands and runs with it and binds the successors in title to the Lands. For certainty, the term "Owner" refers to the current and each future owner of the Lands. This Covenant burdens and charges all of the Lands and any parcel into which it is subdivided by any means and any parcel into which the Lands is consolidated.

Enurement

9. This Covenant binds the Owner and its heirs, executors, administrators, successors and assigns, and benefits the Municipality and its successors and assigns.

Municipal Rights Preserved

10. Nothing in this Covenant shall prejudice or affect the rights, powers and remedies of the Municipality in relation to the Owner, including its heirs, executors, administrators, successors and assigns, or the Lands, under any law, bylaw order or regulation or in equity, all of which rights, powers and remedies may be fully and effectively exercised by the Municipality as if this Covenant had not been made by the parties.

Priority of Registration

11. The Owner will do or cause to be done at its expense all acts necessary to grant priority to this Covenant over all liens, charges and encumbrances which are or may be registered against the Lands or have pending registration save and except those in favour of the Municipality and those specifically approved in writing by the Municipality.

Modification

12. The parties agree that this Covenant shall not be modified or discharged except in accordance with the provisions of section 219(9) of the *Land Title Act*.

Further Assurances

13. The Owner shall do or cause to be done all things and execute or cause to be executed all documents and give such further and other assurance which may be reasonably necessary to give proper effect to the intent of this Covenant.

Interpretation

14. Whenever the singular or masculine or neuter is used herein, the same shall be construed as including the plural, feminine, body corporate or politic unless the context requires otherwise.

Severance

15. If any section or any part of this Covenant is found to be illegal or unenforceable, then such sections or parts shall be considered to be separate and severable from this Covenant and the remaining sections or parts of this Covenant, as the case may be, shall be unaffected thereby and shall remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Covenant.

Governing Law

16. This Covenant shall be interpreted according to the laws of the Province of British Columbia.

Enactments

17. Where there is a reference to an enactment of the Province of British Columbia in this Covenant, that reference shall include a reference to any subsequent enactment of the Province of British Columbia of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.

Deed and Contract

18. By executing and delivering this Covenant each of the parties intends to create both a contract and a deed executed and delivered under seal.

Inspections

19. The Municipality and any of its officers and employees may inspect the Lands for the purpose of ascertaining compliance with this Covenant.

No Discharge

20. The Owner acknowledges that it is not in the public interest for this Covenant to be discharged from the Lands except in accordance with section 5.

No Obligations on Municipality

21. The rights given to the Municipality by this Covenant are permissive only and nothing in this Covenant:
- (a) imposes any duty of care or other legal duty of any kind on the Municipality to the Owner or to anyone else;
 - (b) obliges the Municipality to enforce this Covenant, which is a policy matter within the sole discretion of the Municipality; or
 - (c) obliges the Municipality to perform any act, or to incur any expense for any of the purposes set out in this Covenant.

Municipality's Right to Specific Relief

22. The Owner agrees that the Municipality is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach by the Owner of this Covenant.

Waiver

23. An alleged waiver of any breach of this Covenant 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 Covenant does not operate as a waiver of any other breach of this Covenant.

Joint and Several

24. If at any time more than one person (as defined in the *Interpretation Act* (British Columbia)) owns the Lands, each of those persons will be jointly and severally liable for all of the obligations of the Owner under this Covenant.

Notice

25. Any notice to be given pursuant to this Covenant must be in writing and must be delivered by hand or sent by prepaid mail.
26. The addresses of the parties for the purpose of notice are the addresses on the first page of this Covenant and in the case of any subsequent owner, the address will be the address shown on the title to the Lands in the Land Title Office.

27. If notice is delivered by hand, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is sent by mail, it is to be deemed given 3 days after mailing by deposit at a Canada Post mailing point or office. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice for the purposes of this Covenant must do so by delivery as provided in this section.
28. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the new address is deemed to be the address of such party for giving notice.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Covenant by executing Part 1 of the *Land Title Act* Form C and Form D to which this Covenant is attached and which form part of this Covenant.

ATTACH TO CA817875

ORIGINAL RECEIVED IN PAPER FORM
(EFS)

CANADA

PROVINCE OF
BRITISH COLUMBIA

) IN THE MATTER OF SUBDIVISION PLAN
) EPP277 and registered documents CA817837-
) CA817854, CA817855, CA817856, CA817857,
) CA817858, CA817859, CA817861, CA817862,
) CA817863, CA817864, CA817865, CA817866,
) CA817867, CA817868, CA817869, CA817870,
) CA817871, CA817872, CA817873, CA817874,
) CA817875, CA817876, CA817877, CA817878,
) CA817879, CA817880, CA817881, CA817882,
) CA817884, CA817885, CA817887, CA817889,
) CA817891, CA817892, CA817893, CA817895,
) CA817897, CA817898, CA817900, CA817902-
) CA817903, CA817904, CA817906-CA817909,
) CA817910-CA817911, CA817913-CA817916,
) CA817918

I, Russell G. Benson, Solicitor, of Vancouver, British Columbia, DO SOLEMNLY DECLARE
 THAT:

1. I am the agent for the applicant in respect of the applications to register the documents (the "**Documents**") listed above, and have knowledge of the matters hereinafter set forth save and except where the same are stated to be based on information and belief and as to such facts I verily believe the same to be true.
2. Resort Municipality of Whistler ("**RMOW**") is the registered owner of certain real property situated in the Resort Municipality of Whistler and legally described in Schedule "A" attached hereto.
3. We were instructed by RMOW when preparing the Documents for execution that the officer who would witness execution of the Documents on behalf of RMOW would be Laurie Anne Schimek ("**Laurie**") and we prepared the Documents reflecting Laurie's name as the officer.
4. We printed hard copies of the Documents and then arranged for delivery of the Documents to RMOW for execution on June 11, 2008.
5. To the best of my information and belief, Laurie was not available to witness execution of the Documents on behalf of RMOW on June 11, 2008 and, in Laurie's absence, Lisa Landry ("**Lisa**") witnessed the execution of the Documents on behalf of RMOW.
6. To the best of my information and belief, the Documents were manually changed at the time of execution to replace Laurie's name with Lisa's name as the witnessing officer.
7. Each of the originally executed Documents is in my possession and reflects that signatures thereon on behalf of RMOW were witnessed by Lisa and none of them was witnessed by Laurie.

8. As a result of administrative oversight, we did not change the electronic versions of the Documents to reflect that Lisa was the witnessing officer and we filed the Documents for registration via the Electronic Filing System incorrectly reflecting that Laurie was the witnessing officer.

AND I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*, in support of an application to ensure the name of the correct officer who witnessed the Registered Documents be amended to show Lisa.

DECLARED BEFORE ME at the City of
Vancouver in the Province of British
Columbia, this 14th day of July, 2008.

A Commissioner for taking Affidavits for
British Columbia


Russell G. Benson

SCOTT D. SMYTHE
Barrister & Solicitor
McCarthy Tétrault LLP
1300 - 777 DUNSMUIR STREET
VANCOUVER, B.C. V7Y 1K2
DIRECT 604-643-7152

SCHEDULE "A"

Parcel Identifier:	Legal:
027-557-511	Lot 1, DL 8073, GP 1, NWD, Plan EPP277
027-557-529	Lot 2, DL 8073, GP 1, NWD, Plan EPP277
027-557-537	Lot 3, DL 8073, GP 1, NWD, Plan EPP277
027-557-545	Lot 4, DL 8073, GP 1, NWD, Plan EPP277
027-557-553	Lot 5, DL 8073, GP 1, NWD, Plan EPP277
027-557-570	Lot 6 and an undivided 34/107 interest in Lot 9, DL 8073, GP 1, NWD, Plan EPP277, Together they shall constitute a single parcel (Limited Access)
027-557-715	Lot 7 and an undivided 34/107 interest in Lot 9, DL 8073, GP 1, NWD, Plan EPP277, Together they shall constitute a single parcel (Limited Access)
027-557-723	Lot 8 and an undivided 39/107 interest in Lot 9, DL 8073, GP 1, NWD, Plan EPP277, Together they shall constitute a single parcel (Limited Access)
027-557-758	Lot 10, DL 8073, GP 1, NWD, Plan EPP277
027-557-766	Lot 11, DL 8073, GP 1, NWD, Plan EPP277
027-557-774	Lot 12, DL 8073, GP 1, NWD, Plan EPP277
027-557-782	Lot 13, DL 8073, GP 1, NWD, Plan EPP277
027-557-791	Lot 14, DL 8073, GP 1, NWD, Plan EPP277
027-557-804	Lot 15, DL 8073, GP 1, NWD, Plan EPP277
027-557-812	Lot 16, DL 8073, GP 1, NWD, Plan EPP277
027-557-821	Lot 17, DL 8073, GP 1, NWD, Plan EPP277
027-557-819	Lot 18, DL 8073, GP 1, NWD, Plan EPP277
026-772-213	Block A, DL 8073, GP 1, NWD, Except: Plan EPP277

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

Page 1 of 5 pages

S1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Russell Benson, McCarthy Tétrault LLP
 1300-777 Dunsmuir Street, Vancouver, B.C. V7Y 1K2
 Phone: (604) 643-7100 Client No. 010452

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

(PID)

(LEGAL DESCRIPTION)

027-557-782

Lot 13 District Lot 8073 Group 1 New Westminster District Plan EPP277

3. NATURE OF INTEREST:*

DESCRIPTION

DOCUMENT REFERENCE
(PAGE AND PARAGRAPH)

PERSON ENTITLED TO INTEREST

Modification of Covenant CA817875

Entire Instrument

Transferee

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

(a) Filed Standard Charge Terms ☐

D.F. Number:

(b) Express Charge Terms ☒

Annexed as Part 2

(c) Release ☐

There is no Part 2 of this instrument.

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

5. TRANSFEROR(S):*

TRUE NORTH HOSTELLING ASSOCIATION (Inc. No. A0064003)

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

RESORT MUNICIPALITY OF WHISTLER, a municipality incorporated under the *Resort Municipality of Whistler Act*, S.B.C. 1975 c. 67 and having its address at 4325 Blackcomb Way, Whistler, British Columbia V0N 1B4

7. ADDITIONAL or MODIFIED TERMS:*

Nil

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

USE BLACK INK ONLY

Officer Signature(s)

Execution Date

Y

M

D

10

6

USE BLACK INK ONLY

Party(ies) Signature(s)

TRUE NORTH HOSTELLING ASSOCIATION

by its authorized signatory(ies):

Print Name:

Print Name:

6

Acting Corporate Officer: Laurie-Anne Schimek

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

MODIFICATION TO DEVELOPMENT COVENANT

THIS AGREEMENT dated for reference the 21st day of June, 2010.

BETWEEN:

TRUE NORTH HOSTELLING ASSOCIATION,
Suite 200 – 1155 West Pender Street, Vancouver, British
Columbia V6E 2P4

(the “**Owner**”)

AND:

RESORT OF MUNICIPALITY OF WHISTLER,
4325 Blackcomb Way, Whistler, British Columbia V0N 1B4

(the “**Municipality**”)

WHEREAS:

- A. The Owner is the registered owner of those lands and premises (the “**Lands**”) situate, lying and being in the Resort Municipality of Whistler, in the province of British Columbia, and more particularly described in item 2 of the Form C attached hereto.
- B. The Lands are subject to a section 219 covenant registered under CA817875 (the “**Original Covenant**”) in favour of the Municipality with respect to the development and use of the Lands.
- C. The parties intend to modify the Original Covenant in accordance with the terms and conditions herein.

NOW THEREFORE in consideration of the promises set out in this Agreement, and of TWO DOLLARS (\$2.00) paid by the Municipality to the Owner, receipt of which is acknowledged by the Owner, the Owner covenants and agrees with the Municipality in accordance with Section 219 of the *Land Title Act* as follows:

- 1. Modification. The Owner and the Municipality covenant and agree that the Original Covenant is modified as follows:
 - (a) by deleting subsection 2(a)(i) and replacing it with the following:

- “(i) despite any other uses permitted in the Zoning Bylaw, the Lands shall only be used for the following:
 - (A) hostel with associated restaurant/café or employee housing, or both;
 - (B) local service commercial, local personal service or restaurant (excluding drive-in and window sales), or any or all of them;
 - (C) professional office; and
 - (D) retail,as such terms are defined in the Zoning Bylaw;”;
 - (b) by deleting subsection 2(a)(ii) and replacing it with the following:
 - “(ii) the uses permitted pursuant to paragraphs 2(a)(i)(B), (C) and (D) shall only be permitted on the ground floor of any building built or erected on the Lands;”;
 - (c) by deleting subsection 2(a)(iii) and replacing it with the following:
 - “(iii) with respect to hostel with associated restaurant/café and employee housing uses permitted pursuant to paragraph 2(a)(i)(A), the total development that may be constructed on the Lands shall not exceed 2,610 square metres of Gross Floor Area of which the restaurant/café associated with the hostel use will be not less than 33.1 square metres of Gross Floor Area and not greater than 133.1 square metres of Gross Floor Area; and
 - (iv) with respect to the uses permitted pursuant to paragraphs 2(a)(i)(B), (C) and (D), the total development that may be constructed on the Lands shall not be less than or greater than 66.9 square metres of Gross Floor Area;”;
 - (d) by renumbering existing subsections 2(a)(iv) and (v) as subsections 2(a)(v) and (vi) respectively.
2. Effective Date. This Agreement shall take effect from the date of registration of this Agreement.
3. Further Assurances. The parties hereto shall 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.

4. Construction. The parties hereto agree that this Agreement shall, from the date hereof, be read and construed along with the Original Covenant and be treated as part thereof, and for such purposes and so far as may be necessary to effectuate these presents, the Original Covenant shall be regarded as being hereby amended, and the Original Covenant as so amended together with all terms and conditions thereof shall remain in full force and effect.
5. Conflict. In the case of any conflict between the terms and conditions of the Original Covenant and the terms or conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the Forms C and D attached hereto.

- END OF DOCUMENT -

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

Page 1 of 4 pages

- 1.
- APPLICATION:**
- (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Russell Benson, McCarthy Tétrault LLP
 1300-777 Dunsmuir Street, Vancouver, B.C. V7Y 1K2
 Phone: (604) 643-7100 Client No. 010452

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

(PID)

(LEGAL DESCRIPTION)

027-557-782

Lot 13 District Lot 8073 Group 1 New Westminster District Plan EPP277

- 3.
- NATURE OF INTEREST:***

DESCRIPTION

DOCUMENT REFERENCE
(PAGE AND PARAGRAPH)

PERSON ENTITLED TO INTEREST

Right of First Refusal

Section 4

Transferee

Option to Purchase

Section 5

Transferee

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

(a) Filed Standard Charge Terms ☒ D.F. Number: ST080103(b) Express Charge Terms ☐ Annexed as Part 2(c) Release ☐ There is no Part 2 of this instrument.

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

- 5.
- TRANSFEROR(S):***

TRUE NORTH HOSTELLING ASSOCIATION (Inc. A0064003)

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

RESORT MUNICIPALITY OF WHISTLER, 4325 Blackcomb Way, Whistler, B.C. V0N 1B4

- 7.
- ADDITIONAL or MODIFIED TERMS:***

SEE SCHEDULE

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

USE BLACK INK ONLY

Officer Signature(s)

Name of Officer

Execution Date

Y

M

D

10

USE BLACK INK ONLY

Party(ies) Signature(s)

TRUE NORTH HOSTELLING ASSOCIATION

by its authorized signatory(ies):

Print Name:

Print Name:

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

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

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

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

Page 2 of 4 pages

USE BLACK INK ONLY

Officer Signature(s)

Name of Officer

(as to both signatures)

Execution Date

Y	M	D
10		

USE BLACK INK ONLY

Party(ies) Signature(s)

**RESORT MUNICIPALITY OF
WHISTLER**

by its authorized signatory(ies):

Mayor: Ken Melamed

Acting Corporate Officer: Laurie-Anne
Schimek

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

LAND TITLE ACT
FORM E

SCHEDULE

Page 3 of 4 pages

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

7. ADDITIONAL or MODIFIED TERMS:

1. **Acknowledgment** - By executing and delivering this Agreement, the Transferor acknowledges it has received from the Transferee a true copy of the Standard Charge Terms filed under number ST080103 (the “**Standard Terms**”).
2. **Modified Terms** - The Transferor and Transferee acknowledge and agree that the Standard Terms are hereby modified as follows:
 - (a) *Commercial Space* – The following is inserted immediately after the definition of “Change in CCPI” in section 1(e) of the Standard Terms:

“e.1 “Commercial Space” means up to a maximum area of 720.0 square feet on the ground floor of the building on the Land (whether the existing building or a future building), which the Owner lawfully uses for restaurant, office, retail or other commercial uses;

e.2 “Development Covenant” means Section 219 Covenant CA817875, as amended from time to time;”;
 - (b) *Dwelling Unit* - The definition of “Dwelling Unit” in section 1(g) of the Standard Terms is deleted and replaced with the following:

“g. “Dwelling Unit” means the entire building on the Land (whether the existing building or a future building), unless:

 - (i) the building on the Land has been subdivided by the deposit of a strata plan pursuant to the *Strata Property Act* (or successor legislation) in which case “Dwelling Unit” means each strata lot within the building except any strata lot(s) comprising the Commercial Space; or
 - (ii) the building on the Land has been converted into individual residential units consisting of self-contained sets of habitable rooms (whether or not they include cooking facilities or toilet facilities), in which case "Dwelling Unit" means each such residential unit;”;
 - (c) *Discharge from Commercial Space* – The following is inserted as section 3A of the Standard Terms:

“Discharge from Commercial Space

3A If the existing or a future building on the Land is subdivided by the deposit of a strata plan pursuant to the *Strata Property Act* (or successor legislation), then the Municipality will, on request and at the Owner’s cost, discharge this Agreement from

title to the strata lot(s) on the ground floor of such building comprising the Commercial Space.”;

- (d) *Maximum Price, Resale* - The following is inserted as section 3B of the Standard Terms:

Maximum Price, Resale

The Owner and the Municipality agree that the Housing Agreement restricts the Maximum Price, Resale of the Dwelling Unit even where the Dwelling Unit under the Housing Agreement consists of the entire building on the Land (whether the existing building or a future building) and the Owner and the Municipality further agree, subject always to section 3C hereof:

(i) with respect to a first transfer of the Dwelling Unit by the Transferor where the Dwelling Unit consist of the entire building on the Land (whether the existing building or a future building), then “Previous Sale” means the transfer of the Dwelling Unit by the Municipality to the Owner and “Previous Sale Price” means the fair market value of the Land as set out in the Form A Freehold transfer registered in the Land Title Office in respect of such Previous Sale; and

(ii) with respect to the first transfer by the Owner of any Dwelling Unit where the Dwelling Unit is not the entire building on the Land, then the “Previous Sale Price” shall be the sum of \$250.00 per square foot multiplied by the area of the Dwelling Unit, and where such Dwelling Unit is a strata lot the area shall be the area shown on the strata plan.”; and

- (e) *Exception for Hostel Use* -The following is inserted as section 3C of the Standard Terms:

“Exception for Hostel Use

3C The Owner acknowledges and agrees that as long as the Land, except the Commercial Space, is used solely as a non-profit hostel for temporary accommodation of tourists and visitors with associated restaurant/cafe, the Standard Terms, as amended hereby, will not apply to the Land. If at any time the Land, other than the Commercial Space, ceases to be used solely as a non-profit hostel for temporary accommodation of tourists and visitors with associated restaurant/cafe, then all of the rights, restrictions, covenants and agreements contained in the Standard Terms, as amended hereby, will fully apply to the Land except for the Commercial Space.”.

END OF DOCUMENT

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Russell Benson, McCarthy Tetrault LLP

1300-777 Dunsmuir Street

Vancouver

BC V7Y 1K2

Phone: 604-643-7100

Client No: 010452

Doc No: 1409991

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

027-557-782

LOT 13 DISTRICT LOT 8073 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP277

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION
- SEE SCHEDULE

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

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

TRUE NORTH HOSTELLING ASSOCIATION (INC.NO. A0064003)

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

SEE SCHEDULE

7. ADDITIONAL OR MODIFIED TERMS:

SEE SCHEDULE

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

Officer Signature(s)

Execution Date		
Y	M	D
10		

Transferor(s) Signature(s)

TRUE NORTH HOSTELLING
ASSOCIATION by its authorized
signatory(ies):

Print Name:

Print Name:

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Y M D

10

Transferor / Borrower / Party Signature(s)

RESORT MUNICIPALITY OF
WHISTLER, by its authorized
signatories:

Mayor: Ken Malamed

Acting Corporate Officer: Laurie-Anne
Schimek

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 3 OF 7 PAGES

Officer Signature(s)

Execution Date

Y M D

Transferor / Borrower / Party Signature(s)

HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA represented by
the Minister of Agriculture and Lands or
his or her duly authorized signatory:

Print Name:

OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 4 OF 7 PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Section 219 Covenant (Housing Agreement) (3(a)) Document Reference: Entire Agreement except Sections 22, 23 and 46 Person entitled to interest: Transferee (Resort Municipality of Whistler)
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Rent Charge		Rent Charge (3(b)) Document Reference: Sections 22 and 23 Person entitled to interest: Transferee (Resort Municipality of Whistler)
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		Section 219 Covenant (3(c)) Document Reference: Section 46 Person entitled to interest: Transferee (Her Majesty the Queen in Right of the Province of British Columbia)
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 5 OF 7 PAGES

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

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

RESORT MUNICIPALITY OF WHISTLER, 4325 Blackcomb Way, Whistler, B.C. V0N 1B4 (as to Section 219 Covenant in Item 3(a) and Rent Charge), HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister of Agriculture and Lands, Parliament Buildings, Victoria, B.C. V8V 1X4 (as to Section 219 Covenant in Item 3(c))

LAND TITLE ACT
FORM E**SCHEDULE**

7. ADDITIONAL or MODIFIED TERMS:

1. **Acknowledgment** - By executing and delivering this Agreement, the Transferor acknowledges it has received from the Transferee a true copy of the Standard Charge Terms filed under number ST080100 (the "**Standard Terms**").
2. **Modified Terms** - The Transferor and the Transferees acknowledge and agree that the Standard Terms are hereby modified as follows:
 - (a) *Dwelling Unit* - The definition of "Dwelling Unit" in section 1(e) of the Standard Terms is deleted and replaced with the following:

"e. "Dwelling Unit" means each and every residential dwelling unit consisting of a self-contained set of habitable rooms (whether or not it includes cooking facilities or toilet facilities) within the existing building or any future building located on the Land, whether or not any or all of such residential dwelling units become strata lots and, where the context requires or permits, means a particular residential dwelling unit therein;"
 - (b) *Qualified Business* - Section 4 of the Standard Terms is hereby amended by adding the following sentence at the end of section 4:

"For the purposes of this section, True North Hostelling Association is deemed to be a Qualified Business."
 - (c) *Tenant Charges* - Subsection 11(c) of the Standard Terms is deleted and the following is inserted in its place:

"c. Extra Charges - the Owner may not require the Tenant to pay any extra charges or fees for use of any common property, limited common property, or other common area, or for sanitary sewer, storm sewer, water utilities, or property taxes. For clarity, this subsection does not apply to parking, cablevision, telephone, other telecommunications, gas utility or electricity utility or District Energy System fees or charges; provided, however, that the Owner may charge a maximum of an additional \$75.00 per month if the Dwelling Unit is fully furnished and an additional \$25.00 per month if the Dwelling Unit contains a fully functioning washer and dryer."
3. **Exception for Commercial Use** - The Transferees acknowledge and agree that, notwithstanding anything in the Standard Terms, as amended hereby or as may be later amended, up to a maximum area of 720.0 square feet on the ground floor of the building on the Land (the "**Commercial Space**") may be used for the lifetime of the building and any building in replacement of it, for the uses permitted in Section 219 Covenant CA817875, as amended (the "**Development Covenant**"), or in the event the Development Covenant is discharged from title to the Land and the applicable zoning

LAND TITLE ACT
FORM E

Page 7 of 7 Pages

SCHEDULE

bylaw has been amended to permit the uses permitted in the Development Covenant, then the uses permitted in the applicable zoning bylaw.

4. **Exception for Hostel Use** - The Transferees acknowledge and agree that as long as the Land, except the Commercial Space, is used solely as a non-profit hostel for temporary accommodation of tourists and visitors, the Standard Terms, as amended hereby, will not apply to the Land. If at any time the Land, other than the Commercial Space, ceases to be used solely as a non-profit hostel for temporary accommodation of tourists and visitors, then all of the restrictions, covenants and agreements contained in the Standard Terms, as amended hereby, will fully apply to the Land except for the Commercial Space.

RESORT MUNICIPALITY OF WHISTLER

HOUSING AGREEMENT BYLAW (1035 Legacy Way) NO. 1944, 2010

A bylaw to enter into a housing agreement under Section 905 of the *Local Government Act*

WHEREAS:

A. The Resort Municipality of Whistler is the registered owner, and Whistler 2020 Development Corp. (“WDC”) is the beneficial owner, of that land and building located at 1035 Legacy Way, shown outlined on the plan attached as Schedule “A” to this Bylaw, and legally described as:

Parcel Identifier: 027-557-782

Lot 13 District Lot 8073 Group 1 New Westminster District Plan EPP277

(“Lot 13”);

B. Lot 13 will be purchased by the True North Hostel Association (the “Hostel Association”), and used as a hostel for traveller accommodation;

C. Lot 13 is part of the Community Land Bank lands that the Municipality acquired from the Province of British Columbia for affordable housing purposes, but by a Modification of the Community Land Bank Agreement dated October 15, 2008, the Province agreed that it would discharge its affordable housing covenant if it and the Municipality were granted a replacement housing covenant that allowed the use of Lot 13 as a hostel, but required it to be used for affordable employee housing if not used as a hostel;

D. The Province also agreed that a 720.0 square foot portion of the ground floor of the hostel building could be used for commercial uses if the Province was paid for the value of that area removed from the affordable housing land bank, and the Province has been paid the value of this 720.0 square foot portion;

E. Section 905 of the *Local Government Act* authorizes the Municipality, by bylaw, to enter into housing agreements under that section;

F. Council wishes, by this Bylaw, to authorize the Municipality to enter into a housing agreement with the Hostel Association to allow the 720.0 square foot portion to be used for commercial purposes and to allow the remainder of Lot 13 to be used as a hostel, but to require the remainder to be used for affordable employee housing if ever not used as a hostel;

NOW THEREFORE the Council of the Resort Municipality of Whistler, in open meeting assembled, pursuant to section 905 of the *Local Government Act*, enacts as follows:

1. This Bylaw may be cited for all purposes as “Housing Agreement Bylaw (1035 Legacy Way) No. 1944, 2010”.
2. Council hereby authorizes the Municipality to enter into an agreement with the Hostel Association in the form of agreement attached as Schedule “B” (the “Housing Agreement”).
3. The Mayor and Corporate Officer are authorized to execute the Housing Agreement, and the Corporate Officer is authorized to sign and file in the Land Title Office a notice of the Housing Agreement, as required by Section 905 of the *Local Government Act*.

GIVEN FIRST, SECOND AND THIRD READINGS this 15th day of June, 2010.

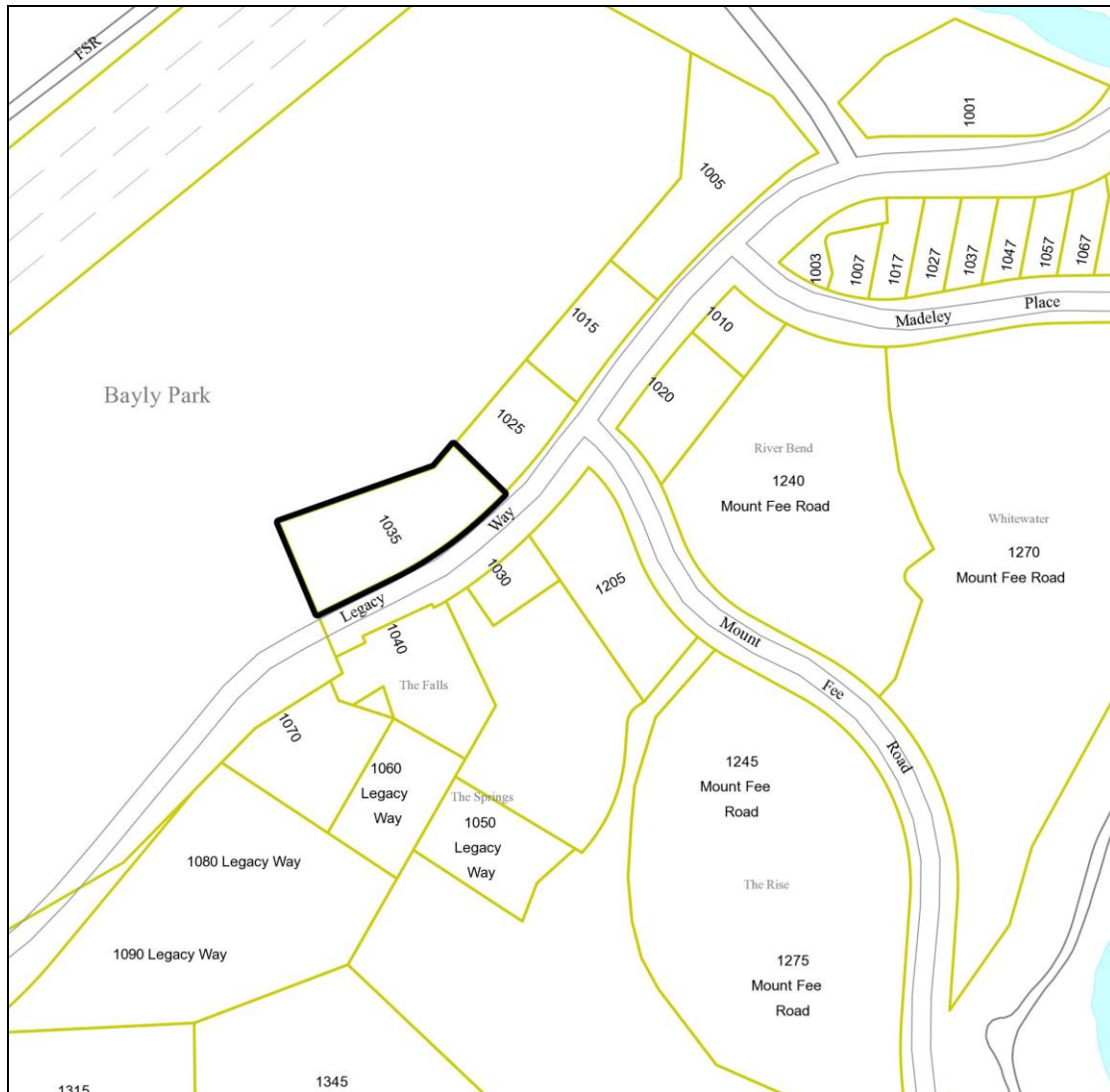
ADOPTED by the Council this _____ day of _____, ____.

Ken Melamed
Mayor

Laurie-Anne Schimek
Acting Corporate Officer

I HEREBY CERTIFY that this is a true copy of
“Housing Agreement Bylaw (1035 Legacy Way)
No. 1944, 2010”.

Laurie-Anne Schimek
Acting Corporate Officer

Schedule “A” to Bylaw No. 1944, 2010

LAND TITLE ACT
FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

Page 1 of 5 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Russell Benson, McCarthy Tétrault LLP
1300-777 Dunsmuir Street, Vancouver, B.C. V7Y 1K2
Phone: (604) 643-7100 Client No. 010452

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

(PID)	(LEGAL DESCRIPTION)
027-557-782	Lot 13 District Lot 8073 Group 1 New Westminster District Plan EPP277

3. NATURE OF INTEREST:*

DESCRIPTION	DOCUMENT REFERENCE (PAGE AND PARAGRAPH)	PERSON ENTITLED TO INTEREST
SEE SCHEDULE		

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

- (a) Filed Standard Charge Terms ☒ D.F. Number: ST080100
(b) Express Charge Terms ☐ Annexed as Part 2
(c) Release ☐ There is no Part 2 of this instrument.

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

5. TRANSFEROR(S):*

TRUE NORTH HOSTELLING ASSOCIATION (Inc. No. S-_____)

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

RESORT MUNICIPALITY OF WHISTLER, 4325 Blackcomb Way, Whistler, B.C. V0N 1B4 (as to Section 219 Covenant in Item 3(a) and Rent Charge), **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**, represented by the Minister of Agriculture and Lands, Parliament Buildings, Victoria, B.C. V8V 1X4 (as to Section 219 Covenant in Item 3(c))

7. ADDITIONAL or MODIFIED TERMS:*

SEE SCHEDULE

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

USE BLACK INK ONLY

Officer Signature(s)

Name of Officer

Execution Date

Y	M	D
10		

USE BLACK INK ONLY

Party(ies) Signature(s)

TRUE NORTH HOSTELLING ASSOCIATION

by its authorized signatory(ies):

Print Name:

Print Name:

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

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

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

USE BLACK INK ONLY

Officer Signature(s)

Name of Officer

(as to both signatures)

Execution Date

Y

M

D

10		
----	--	--

USE BLACK INK ONLY

Party(ies) Signature(s)

**RESORT MUNICIPALITY OF
WHISTLER**

by its authorized signatory(ies):

Mayor: Ken Melamed

Acting Corporate Officer: Laurie-Anne Schimek

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

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Page 3 of 5 pages

USE BLACK INK ONLY

Officer Signature(s)

Name of Officer

Execution Date

Y

M

D

10

USE BLACK INK ONLY

Party(ies) Signature(s)

**HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA** represented by
the Minister of Agriculture and Lands
or his or her duly authorized signatory:

Print Name:

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

LAND TITLE ACT
FORM E

SCHEDULE

Page 4 of 5 pages

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

3. NATURE OF INTEREST:

DESCRIPTION	DOCUMENT REFERENCE (PAGE AND PARAGRAPH)	PERSON ENTITLED TO INTEREST
(a) Section 219 Covenant (Housing Agreement)	Entire Agreement except Sections 22, 23 and 46	Transferee (Resort Municipality of Whistler)
(b) Rent Charge	Sections 22 and 23	Transferee (Resort Municipality of Whistler)
(c) Section 219 Covenant	Section 46	Transferee (Her Majesty the Queen in Right of the Province of British Columbia)

7. ADDITIONAL or MODIFIED TERMS:

1. **Acknowledgment** - By executing and delivering this Agreement, the Transferor acknowledges it has received from the Transferee a true copy of the Standard Charge Terms filed under number ST080100 (the “**Standard Terms**”).
2. **Modified Terms** - The Transferor and the Transferees acknowledge and agree that the Standard Terms are hereby modified as follows:
 - (a) *Dwelling Unit* - The definition of “Dwelling Unit” in section 1(e) of the Standard Terms is deleted and replaced with the following:

“e. “Dwelling Unit” means each and every residential dwelling unit consisting of a self-contained set of habitable rooms (whether or not it includes cooking facilities or toilet facilities) within the existing building or any future building located on the Land, whether or not any or all of such residential dwelling units become strata lots and, where the context requires or permits, means a particular residential dwelling unit therein;”.
 - (b) *Qualified Business* - Section 4 of the Standard Terms is hereby amended by adding the following sentence at the end of section 4:

“For the purposes of this section, True North Hostelling Association is deemed to be a Qualified Business.”.
 - (c) *Tenant Charges* - Subsection 11(c) of the Standard Terms is deleted and the following is inserted in its place:

“c. Extra Charges - the Owner may not require the Tenant to pay any extra charges or fees for use of any common property, limited common property, or other common area, or for sanitary sewer, storm sewer, water utilities, or property taxes. For clarity, this subsection does not apply to parking, cablevision, telephone, other telecommunications, gas utility or electricity utility or District Energy System fees or charges; provided, however, that the Owner may charge a maximum of an additional \$75.00 per month if

the Dwelling Unit is fully furnished and an additional \$25.00 per month if the Dwelling Unit contains a fully functioning washer and dryer.”.

3. **Exception for Commercial Use** - The Transferees acknowledge and agree that, notwithstanding anything in the Standard Terms, as amended hereby or as may be later amended, up to a maximum area of 720.0 square feet on the ground floor of the building on the Land (the “**Commercial Space**”) may be used for the lifetime of the building and any building in replacement of it, for the uses permitted in Section 219 Covenant CA817875, as amended (the “**Development Covenant**”), or in the event the Development Covenant is discharged from title to the Land and the applicable zoning bylaw has been amended to permit the uses permitted in the Development Covenant, then the uses permitted in the applicable zoning bylaw.
4. **Exception for Hostel Use** - The Transferees acknowledge and agree that as long as the Land, except the Commercial Space, is used solely as a non-profit hostel for temporary accommodation of tourists and visitors, the Standard Terms, as amended hereby, will not apply to the Land. If at any time the Land, other than the Commercial Space, ceases to be used solely as a non-profit hostel for temporary accommodation of tourists and visitors, then all of the restrictions, covenants and agreements contained in the Standard Terms, as amended hereby, will fully apply to the Land except for the Commercial Space.

END OF DOCUMENT