



WHISTLER

REPORT | CLOSED MEETING ADMINISTRATIVE REPORT TO COUNCIL

PRESENTED: April 6, 2021
FROM: Corporate & Community Services
SUBJECT: WHISTLER 2020 DEVELOPMENT CORPORATION HOME WARRANTY
INSURANCE INDEMNITY AGREEMENT

REPORT: 21-039
FILE: 0500-00

COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the the recommendation of the General Manager of Corporate and Community Services be endorsed.

RECOMMENDATION

That Council authorise the execution of the Indemnity Agreement in favour of The Guarantee Company of North America on behalf of the Resort Municipality of Whistler (RMOW) as Indemnitor for the 100 unit low rise project located at: Parcel A - 1340 and 1360 Mount Fee Road, Whistler, BC - PID Number 026-772-213 (Cheakamus Crossing Phase II – Parcel A).

REFERENCES

Appendix A – The Guarantee Company of North America Home Warranty Insurance Indemnity Agreement for Parcel A (“Indemnity Agreement”)

Appendix B – The Guarantee Company of North America BC Builder Agreement for Parcel A (“Builder Agreement”)

PURPOSE OF REPORT

The purpose of this Report is to seek Council’s authorization to execute the Indemnity Agreement in favour of the Guarantee Company of North America (Warranty Provider) in support of Whistler 2020 Development Corporation’s (WDC) development of a 100-unit employee housing building at Parcel A.

DISCUSSION

One of the conditions of the building permit for the Parcel A project is for the developer/builder to provide proof of a home warranty insurance policy. WDC is the developer/builder of Parcel A and has worked with a broker to secure the required policy from the Warranty Provider. Due to the financial structure of the WDC and the fact that the WDC is a wholly-owned subsidiary of the RMOW, the Warranty Provider requires the WDC and the RMOW to jointly execute the Indemnity Agreement attached as Appendix A to this report.

The Indemnity Agreement, alongside the Builder Agreement (attached as Appendix B) set the terms, conditions and responsibilities of each party as it pertains to the provision of the future home warranty protections required by *Homeowner Protection Act*.

The responsibilities under the Indemnity Agreement are joint and several. This means that either party (WDC or RMOW) could hold the entire responsibility with respect to the provisions of the home warranty obligations in the future. Further, the Indemnity Agreement releases the legal right for the RMOW to pursue a claim against the Warranty Provider if WDC fails to comply with the Builder Agreement; if the Warranty Provider enforces any of the covenants or obligations included in the Indemnity Agreement; or if WDC becomes insolvent. Finally, in the event of a default of the Builder Agreement, the Indemnity Agreement also allows the Warranty Provider to take an interest in all current and future personal property of WDC & RMOW.

The current requirement for the RMOW to sign an Indemnity Agreement in support of WDC's planned development of Parcel A is similar to the development of Cheakamus Crossing. On the regular meeting of April 7, 2008 RMOW Council passed the following resolution:

That Council authorize the Mayor and Corporate Officer to execute the guarantees for the Travelers Guarantee Company of Canada for Whistler 2020 Development Corporate projects at the Athletes' Village.

POLICY CONSIDERATIONS

Official Community Plan

Goals, Objectives and Policies

The recommended resolution seeks to, "support a stable Whistler workforce that contributes to a superior quality of experience for our visitors and residents and helps maintain Whistler's competitive position." (Goal 6.2). In particular, the resolution seeks to, "Support housing initiatives that address Whistler's *employee housing* needs..." (Policy 6.2.1.5)

Other Relevant Policies

None identified.

BUDGET CONSIDERATIONS

There are no immediate RMOW budget impacts of signing the Indemnity Agreement, but as outlined above, the execution of the Indemnity Agreement does expose the RMOW to future potential liabilities as outlined in the terms and conditions of the Indemnity Agreement itself. In general terms, the incremental financial exposure to the municipality is tied to the WDC's obligations and responsibilities within the terms of the Builder Agreement. If the RMOW executes the Indemnity Agreement, and the WDC is unable to meet its obligations under the Builder Agreement, the RMOW will have agreed to cover all associated costs related to the provision of the new home warranty insurance terms.

COMMUNITY ENGAGEMENT AND CONSULTATION

There has been no community engagement related to this topic.

SUMMARY

This report seeks Council's authorization to enter into an Indemnity Agreement in support of the WDC's required new home warranty insurance policy obligations associated with the development of Parcel A in Cheakamus Crossing Phase II.

Respectfully submitted,

Ted Battiston
GENERAL MANAGER OF CORPORATE AND COMMUNITY SERVICES