

viewed as to content on behalf of the Resort Municipality of Whistler

S. Flynn

COMMUNITY LAND BANK AGREEMENT

COMMUNITY LAND BANK TRUST DECLARATION

THIS DECLARATION dated for reference the 25th day of June 2013,

TO:

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 (the "Province")

FROM:

**RESORT MUNICIPALITY OF WHISTLER,
4325 Blackcomb Way,
Whistler, B.C.
VON 1B4
(the "Municipality")**

WHEREAS:

A. The Municipality acquired from the Province, pursuant to the Community Land Bank Agreement, as amended, those two properties legally described as:

Parcel Identifier: 026-772-213 Block A District Lot
8073 Group1 New Westminster District

("Block A")

and

Parcel Identifier: 027-018-474
Block B District Lot 8073 Group 1 New Westminster District

("Block B");

B. The Municipality was granted Block A by the Province on the basis that a portion of Block A (which portion is commonly known as the Athletes' Village land) would be developed mainly as housing for athletes for the 2010 Olympic and Paralympic Winter Games, and on the basis that after the Games, most of this housing would be made available on an affordable basis to Whistler employees and retirees, and the remainder of the housing could be sold at market prices;

C. The Municipality has notified the Province that it wishes to use a portion of Block A for market housing, and the Municipality has provided or will provide to the Province plans and specifics of that market housing;

D. The Province has agreed to the sale of market housing developed on Block A, with no price or occupancy restrictions, on the basis that if the sale of market housing on Block A generates a "Profit from Market Housing" (as defined

herein), then such profit would be reserved for development of Affordable Employee Housing (as defined herein) on the Lands and on other lands acquired by the Municipality from the Province under the Community Land Bank Agreement;

- E. On August 18, 2006 the Municipality and a corporation wholly owned by the Municipality, Whistler 2020 Development Corp. ("**WDC**"), entered into a Municipal Services Agreement, by which WDC agreed to provide, as a service on behalf of the Municipality, the design, financing, development, construction, marketing, selling and leasing of housing and commercial space on Block A;
- F. In order to facilitate the Municipal Services Agreement, by a Declaration of Limited Trust entered into on August 18, 2006, the Municipality transferred the beneficial ownership of Block A to WDC, subject to the limitations and terms of the Declaration of Limited Trust;
- G. Block A and Block B have subsequently been subdivided into those 17 parcels known as Lots 1 through 18 listed on Schedule "A" (with Lot 9 being a common lot), plus the Remainder of Block A, also listed on Schedule "A";
- H. Lots 1 through 18, but specifically excluding Lot 5 ("Lot 5", which generally corresponds to the area of Block B), but including the Remainder of Block A, are together referred to as the "Lands", which is the final area of the Athletes Village;
- I. The Municipality and WDC have amended the Municipal Services Agreement to provide that it now applies to the Lands, rather than Block A;
- J. The Municipality and WDC have replaced the Declaration of Limited Trust with a Declaration of Bare Trust and Agency Agreement, which applies to the Lands;
- K. The Municipality and WDC have agreed that net proceeds received from the sale of affordable and market residential properties on the Lands will be paid to the Municipality for its own use;
- L. The Municipality has or will have incurred debt to the Municipal Finance Authority ("**MFA**") for the development of the Lands and Lot 5, and for the retrofitting of residential properties after the 2010 Olympic and Paralympic Winter Games, pursuant to:

Resort Municipality of Whistler Athletes' Village Loan Authorization Bylaw No. 1831, 2008, and

Resort Municipality of Whistler Athletes' Village Temporary Borrowing Bylaw No. 1873, 2008
(the "**Municipal Debt**"),

with the Municipal Debt secured or to be secured by a mortgage over the Lands and other security in favour of MFA;

M. The Municipality has adopted "Cheakamus Crossing Affordable Employee Housing Reserve Fund Bylaw No. 1878, 2008", a copy of which is attached as Schedule "B";

NOW THEREFORE, for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Municipality hereby agrees, promises and declares with and to the Province as follows:

Definitions

1. In this Declaration

(a) "Affordable Employee Housing" means housing units sold or rented at below market prices to persons who are employed in Whistler, or persons who, although retired, were employed in Whistler, with occupancy of those housing units restricted pursuant to the terms of a housing agreement under section 905 of the *Local Government Act*, to the employees, retirees and members of their households;

(b) "Project Costs" means the project costs for the overall development of affordable housing and market housing on the Lands, including, but not limited to, hard construction and site servicing costs and soft development costs; and

(c) "Profit from Market Housing" means:

Adjusted sales prices received from the sale of affordable housing and from the sale of market housing on the Lands

minus

Project Costs.

Reserve Fund

2. The Municipality hereby declares to the Province that it has established a reserve fund known as the "Cheakamus Crossing Affordable Employee Housing Reserve Fund" for the sole purpose of:

- i. acquiring land for; or
- ii. designing, constructing, financing, operating, maintaining, repairing or replacing,

Affordable Employee Housing on land acquired by the Municipality from the Province under the Community Land Bank Agreement.

Deposit to Reserve Fund

- 3. Subject to section 4, the Municipality declares to and agrees with the Province that the Profit from Market Housing that the Municipality receives from WDC or otherwise shall be held in trust and deposited to the credit of the Cheakamus Crossing Affordable Employee Housing Reserve Fund.
- 4. The Municipality is and will be borrowing money from the MFA for funding of the Project Costs and other expenses, and the Municipal Debt will be repaid in full to the MFA prior to the deposit of any monies into the Cheakamus Crossing Affordable Housing Reserve Fund.
- 5. The Municipality may deposit, to the credit of the Cheakamus Crossing Affordable Employee Housing Reserve Fund, monies from other sources.

Interest

- 6. Interest earned on the Cheakamus Crossing Affordable Employee Housing Reserve Fund shall be credited to the Fund.

IN WITNESS WHEREOF, the RMOW has executed this Agreement by their duly authorized representatives as of the date first written above.

DATED THIS 4 DAY OF July 2013

RESORT MUNICIPALITY OF WHISTLER

~~FRANZ WILHELM MORDEN~~
Mayor ~~MAYOR.~~ JAYSON FAULKNER
~~ACTING MAYOR~~

~~SHANNON STORY~~
Corporate Officer SHANNON STORY
CORPORATE OFFICER

Schedule "A" to COMMUNITY LAND BANK TRUST DECLARATION

Legal Descriptions of 17 Subdivided Parcels and Remainder of Block A

Parcel Identifier:	Legal Description:
027-557-511	Lot 1 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-529	Lot 2 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-537	Lot 3 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-545	Lot 4 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-553	Lot 5 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-570	Lot 6 and an undivided 34/107 interest in Lot 9 District Lot 8073 Group 1 New Westminster District 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 District Lot 8073 Group 1 New Westminster District 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 District Lot 8073 Group 1 New Westminster District Plan EPP277 together they shall constitute a single parcel (limited access)
027-557-758	Lot 10 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-766	Lot 11 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-774	Lot 12 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-782	Lot 13 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-791	Lot 14 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-804	Lot 15 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-812	Lot 16 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-821	Lot 17 District Lot 8073 Group 1 New Westminster District Plan EPP277
027-557-839	Lot 18 District Lot 8073 Group 1 New Westminster District Plan EPP277
026-772-213	Block A District Lot 8073 Group 1 New Westminster District Except: Plan EPP277

Schedule B

RESORT MUNICIPALITY OF WHISTLER

Cheakamus Crossing Affordable Employee Housing Reserve Fund Bylaw No. 1878, 2008

A bylaw to establish a reserve fund to be known as the Cheakamus Crossing Affordable
Employee Housing Reserve Fund

WHEREAS:

- A. The Municipality acquired from the Province, pursuant to the Community Land Bank Agreement, as amended, properties referred to in this Bylaw as "Block A" and "Block B" (with their legal descriptions attached to this Bylaw as Schedule "A");
- B. Block A and Block B have subsequently been subdivided into those 17 parcels, known as Lots 1 through 18 (with Lot 9 being a common lot), plus the Remainder of Block A, listed on Schedule "B" attached to this Bylaw;
- C. Lots 1 through 18, except Lot 5 ("Lot 5"), are together referred to in this Bylaw as the "Lands", which area is commonly known as the Athletes' Village;
- D. The Municipality was granted the Lands by the Province on the basis that the Lands would be developed mainly as housing for athletes for the 2010 Olympic and Paralympic Winter Games, and on the basis that after the Games, most of this housing would be made available on an affordable basis to Whistler employees and retirees, and the remainder of the housing could be sold at market prices;
- E. The Province has agreed to the sale of market housing developed on the Lands, with no price or occupancy restrictions, on the basis that if the sale of market housing on the Lands generates a "Profit from Market Housing" (as defined herein), then such profit would be reserved for development of Affordable Employee Housing (as defined herein) on the Lands and on other lands acquired by the Municipality from the Province under the Community Land Bank Agreement;
- F. On August 18, 2006 the Municipality and a corporation wholly owned by the Municipality, Whistler 2020 Development Corp. ("WDC"), entered into a Municipal Services Agreement, by which WDC agreed to provide, as a service on behalf of the Municipality, the design, financing, development, construction, marketing, selling and leasing of housing and commercial space on Block A;
- G. In order to facilitate the Municipal Services Agreement, by a Declaration of Limited Trust entered into on August 18, 2006, the Municipality transferred the beneficial ownership of Block A to WDC, subject to the limitations and terms of the Declaration of Limited Trust;
- H. The Municipality and WDC have amended the Municipal Services Agreement to provide that it now applies to the Lands rather than Block A;

- I. The Municipality and WDC have replaced the Declaration of Limited Trust with a Declaration of Bare Trust and Agency Agreement, which applies to the Lands; ;
- J. The Municipality and WDC have agreed that net proceeds received from the sale of affordable and market residential properties on the Lands and net proceeds received from the lease and sale of commercial properties on the Lands will be paid to the Municipality for its own use;
- K. The Municipality has or will have incurred debt to the Municipal Finance Authority ("MFA") for the development of the Lands and Lot 5, and for the retrofitting of residential properties after the 2010 Olympic and Paralympic Winter Games, pursuant to:

Resort Municipality of Whistler Athletes' Village Loan Authorization Bylaw No. 1831, 2008

Resort Municipality of Whistler Athletes' Village Temporary Borrowing Bylaw No. 1873, 2008

(the "Municipal Debt"),

with the Municipal Debt secured or to be secured by a mortgage over the Lands and other security in favour of MFA;

- L. Section 188(1) of the *Community Charter* authorizes Council to establish a reserve fund for a specified purpose and to direct that money be placed to the credit of the reserve fund;

NOW THEREFORE the Council of the Resort Municipality of Whistler in open meeting assembled enacts as follows:

Citation

- 1. This bylaw may be cited as "Cheakamus Crossing Affordable Employee Housing Reserve Fund Bylaw No. 1878, 2008".

Definitions

- 2. In this bylaw,
 - (a) "Affordable Employee Housing" means housing units sold or rented at below market prices to persons who are employed in Whistler, or persons who, although retired, were employed in Whistler, with occupancy of those housing units restricted pursuant to the terms of a housing agreement under section 905 of the *Local Government Act*, to the employees, retirees and members of their households;

- (b) "Project Costs" means the project costs for the overall development of affordable housing and market housing on the Lands, including, but not limited to, hard construction and site servicing costs and soft development costs; and
- (c) "Profit from Market Housing" means:
Adjusted sales prices received from the sale of affordable housing and from the sale of market housing on the Lands

minus

Project Costs.

Establishment of Reserve Fund

- 3. There is hereby established a reserve fund to be known as the "Cheakamus Crossing Affordable Employee Housing Reserve Fund" for the sole purpose of:
 - (i) acquiring land for; or
 - (ii) designing, constructing, financing, operating, maintaining, repairing or replacing.

Affordable Employee Housing on land acquired by the Municipality from the Province under the Community Land Bank Agreement.

Deposit to Reserve Fund

- 4. Subject to section 5, there shall be deposited to the credit of the Cheakamus Crossing Affordable Employee Housing Reserve Fund the Profit from Market Housing.
- 5. The Municipality is and will be borrowing money from the MFA for funding of the Project Costs and other expenses, and the Municipal Debt will be repaid in full to the MFA prior to the deposit of any monies into the Cheakamus Crossing Affordable Housing Reserve Fund.
- 6. The Municipality may deposit, to the credit of the Cheakamus Crossing Affordable Employee Housing Reserve Fund, monies from other sources.

Interest

- 7. Interest earned on the Cheakamus Crossing Affordable Employee Housing Reserve Fund shall be credited to the Fund.

Severability

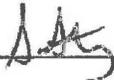
8. If a portion of this bylaw is held invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

GIVEN FIRST THREE READINGS this 3rd day of November, 2008.

ADOPTED this 17th day of November, 2008.



Mayor: Ken Melamed



Corporate Officer: Shannon Story

I HEREBY CERTIFY that this is a true copy of "Cheakamus Crossing Employee Housing Reserve Fund Bylaw No. 1878, 2008".

Shannon Story

Corporate Officer

Schedule "A"

Parcel Identifier: 026-772-213

Block A District Lot 8073 Group 1 New Westminster District

("Block A")

Parcel Identifier: 027-018-474

Block B District Lot 8073 Group 1 New Westminster District

("Block B")

Schedule "B"**Legal Descriptions of 17 Subdivided Parcels and Remainder of Block A**

Parcel Identifier	Legal Description
027-557-511	Lot 1 District Lot 8073 Group 1 New Westminster District Plan EPP277
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