

FINANCIAL CONTRIBUTION AGREEMENT

THIS AGREEMENT dated for reference this 23rd day of March, 2022.

BETWEEN:

COWICHAN VALLEY REGIONAL DISTRICT

175 Ingram Street
Duncan, BC V9L 1N8

(the "CVRD")

OF THE FIRST PART

AND:

COWICHAN HOUSING ASSOCIATION

Society Number S0063519
225 Canada Ave #106
Duncan, BC V9L 1T6

(the "CHA")

OF THE SECOND PART

WHEREAS:

- A. The CVRD is a regional district incorporated by Letters Patent under the *Local Government Act* and is authorized by CVRD Bylaw No. 4201 – Cowichan Housing Association Annual Financial Contribution Service Establishment Bylaw, 2018 (the "**Bylaw**") to provide an annual financial contribution to assist the CHA with costs associated with providing programs and services related to affordable housing and homelessness prevention within the CVRD;
- B. The CHA is incorporated under the *Societies Act* (British Columbia) with a mandate to increase affordable housing options and to prevent homelessness in the CVRD through research, community development, homelessness prevention programming and facilitating affordable housing development;
- C. The CVRD wishes to provide a financial contribution to the CHA to assist with CHA's provision of its programs and services, on the terms and conditions set out in this Agreement;
- D. The CVRD operates on a January 1 to December 31 fiscal year (the "**CVRD Fiscal Year**") and will approve the Financial Contribution on the basis of the CVRD Fiscal Year.

NOW THIS AGREEMENT WITNESSES that in consideration of the premises, the terms and conditions hereinafter contained, the sufficiency and receipt of which is hereby acknowledged, the parties covenant and agree each with the other as follows:

1.0 DEFINITIONS

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

- (a) **“Annual Operating Contribution”** has the meaning ascribed to that term in section 3.1(a);
- (b) **“Annual Housing Fund Contribution”** has the meaning ascribed to that term in section 3.1(b);
- (c) **“Annual Report/Work Plan”** has the meaning ascribed to that term in Schedule “C” at section 1;
- (d) **“Approved Budget”** means the CHA’s annual total budget for the Housing Fund Program, the Operating Program and the CHA Maintenance and Administration, as approved by the CVRD Board;
- (e) **“Bylaw”** has the meaning ascribed to that term in Recital A;
- (f) **“CHA Fiscal Year”** means the period from April 1 of one year to March 31 of the following year, or such other 12 month period as CHA may in future adopt as its fiscal year;
- (g) **“CHA Maintenance and Administration”** has the meaning ascribed to that term in Schedule “B” at section 3;
- (h) **“CVRD Board”** means the elected board of the Cowichan Valley Regional District;
- (i) **“CVRD Fiscal Year”** has the meaning ascribed to that term in Recital D;
- (j) **“CVRD’s Annual Budget”** means the Five Year Financial Plan Bylaw, approved annually by the CVRD Board, that governs all CVRD expenditures during the CVRD Fiscal Year;
- (k) **“Financial Contribution”** has the meaning ascribed to that term in section 3.1;
- (l) **“Housing Fund”** means the fund established and held by the CVRD for the purpose of the Housing Fund Program;
- (m) **“Housing Fund Program”** has the meaning ascribed to that term in Schedule “B” at section 1;

- (n) **“Operating Programs”** has the meaning ascribed to that term in Schedule “B” at section 2;
- (o) **“Services”** has the meaning ascribed to that term in section 4.1(a);
- (p) **“Term”** has the meaning ascribed to that term in section 2.1.

2.0 TERM

- 2.1 The term of this Agreement is for a period of two (2) years commencing on the 1st day of January 2022 and ending on the 31st day of December, 2023 (the **“Term”**), subject to earlier termination under section 9.1 of this Agreement.
- 2.2 This Agreement may, by mutual agreement of the parties, be renewed for one additional term of two (2) years.

3.0 FINANCIAL CONTRIBUTION

- 3.1 In accordance with and subject to the terms and conditions of this Agreement, including but not limited to the requirements as outlined in Schedule “A” attached hereto, the CVRD agrees to:
 - (a) make an annual contribution to the CHA of up to 1/3 of the Approved Budget, to be used for the Operating Programs and CHA Management and Administration (the **“Annual Operating Contribution”**); and
 - (b) make an annual contribution to the CHA of up to 2/3 of Approved Budget to be placed in the Housing Fund and used for the Housing Fund Program (the **“Annual Housing Fund Contribution”**);(collectively the **“Financial Contribution”**).

4.0 CHA’S OBLIGATIONS

- 4.1 The CHA must do the following:
 - (a) use the Financial Contribution solely and exclusively for the services as outlined in Schedule “B” attached to this Agreement (the **“Services”**);
 - (b) use the Financial Contribution in accordance with the Approved Budget;
 - (c) ensure the Services are undertaken and provided in accordance with all statutory and other legal requirements that may apply;
 - (d) maintain proper financial records and supporting documentation respecting the Services and the use of the Financial Contribution;

- (e) permit the CVRD, its officers, employees and its auditors, on reasonable notice, to inspect and take copies of the records referred to in subsection 4.1(d);
- (f) provide the CVRD with the Annual Report/Work Plan, according to the requirements as outlined in Schedule "C" attached to this Agreement; and
- (g) if the Financial Contribution is not fully expended for the purpose of the Services by the end of the CHA Fiscal Year for which the Financial Contribution was approved, repay the un-expended portion of the Financial Contribution to the CVRD upon written demand being made.

5.0 REPRESENTATIONS AND WARRANTIES

5.1 The CHA represents and warrants to the CVRD that:

- (a) the CHA is incorporated as a society under the provisions of the *Societies Act* (British Columbia); and
- (b) the CHA has the power and capacity to accept, execute and deliver, and to perform its obligations under this Agreement.

6.0 RELATIONSHIP BETWEEN THE PARTIES

6.1 The purpose of this Agreement is to establish terms and conditions for the CHA's receipt and use of the Financial Contribution.

6.2 No assurance is made to the CHA that the Financial Contribution will be approved by the CVRD Board for any year during the Term and no assurance is made to the CHA that any similar funding will be provided following the end of the Term.

6.3 No provision of this Agreement shall be construed as creating a partnership or joint venture relationship, or a principal-agent relationship between the CVRD and the CHA in relation to the Services, or otherwise. The Services are not a service of the CVRD, and the CHA does not undertake the Services as a contractor on behalf of the CVRD. Nothing in this Agreement, and no actions taken by the CVRD in implementing or enforcing this Agreement, shall:

- (a) make the CVRD responsible in any way for the management, supervision, operation or delivery of the Services;
- (b) give rise to any liability on the part of the CVRD, whether to the CHA or to any other person, for any losses, damages, costs, or liabilities arising from or related to the Services; and
- (c) be interpreted as giving rise to a duty of care on the part of the CVRD to the

CHA, or to any other person, to investigate or to verify whether the Services are being undertaken in accordance with the requirements of this Agreement, or in accordance with any statutory or legal requirements that may apply.

7.0 PUBLIC RELATIONS

7.1 At the request of the CVRD, any public announcements made by the CHA relating to this Agreement and any promotions or publications regarding the Services will:

- (a) include clear recognition of the Financial Contribution given by the CVRD;
- (b) be in a form approved in writing by the CVRD; and
- (c) not represent or hold out that the CHA acts as an agent or contractor for the CVRD in relation to the delivery of the Services.

8.0 INDEMNITY

8.1 The CHA shall indemnify and save harmless the CVRD, its employees, agents, officers, directors, and authorized representatives, and each of them, from and against all losses, claims, damages, actions, causes of action, costs, and expenses, of any kind that the CVRD may sustain, incur, suffer or be put to at any time, arising from acts, errors or omissions including negligent acts or breaches of law, contract or trust, committed by the CHA or its employees, agents, officers or directors in relation to their use of the Financial Contribution for the purposes of the Services. This indemnity shall survive the termination of this Agreement.

9.0 TERMINATION

9.1 If the CHA is in default in the performance of any of its obligations under this Agreement, and fails to remedy said default within 30 days notice from the CVRD or if the CHA becomes insolvent or is assigned into bankruptcy, then the CVRD may terminate this Agreement by written notice to the CHA.

9.2 The CVRD may terminate this Agreement, without cause, at any time by giving not less than six (6) months written notice to the CHA.

9.3 Following termination under section 9.1 and 9.2, the CHA shall immediately repay any unused portion of the Financial Contribution to the CVRD on written demand being made by the CVRD. Notwithstanding the CVRD's right to terminate this Agreement under section 9.1 and 9.2; if the CHA has used the Financial Contribution for any reason other than to provide the Services or if the CHA used the Financial Contribution in a manner that is contrary to the Approved Budget ("**Improper Expenditure**"), then the CHA shall repay the Improper Expenditure to the CVRD on written demand being made by the CVRD.

10.0 NON-DEROGATION

10.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the CVRD in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised as if this Agreement had not been executed and delivered by the parties, and the interpretation of this Agreement shall be subject to and consistent with statutory restrictions imposed on the CVRD under the *Local Government Act* and *Community Charter*.

11.0 NOTICE

11.1 Any notice required to be given under this Agreement will be deemed to be sufficiently given:

- (a) if delivered at the time of delivery; and
- (b) if mailed from any government post office in the Province of British Columbia by prepaid registered mail addressed as follows:

if to the CVRD: 175 Ingram Street
Duncan, BC V9L 1N8
Attention: GM Corporate Services

if to the CHA: 225 Canada Ave #106
Duncan, BC V9L 1T6
Attention: Executive Director

12.0 TIME

12.1 Time is of the essence of this Agreement.

13.0 BINDING EFFECT

13.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

14.0 WAIVER

14.1 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

15.0 ENTIRE AGREEMENT

15.1 This Agreement constitutes the entire agreement between the parties with respect to the matters herein and may not be modified except by subsequent agreement in writing.

16.0 SCHEDULES AND RECITALS

16.1 The schedules and recitals form part of this Agreement.

17.0 LAW APPLICABLE

17.1 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

18.0 AMENDMENT

18.1 This Agreement may not be modified or amended except by the written agreement of the parties.

19.0 COUNTERPART

19.1 This Agreement may be executed in counterpart with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

COWICHAN VALLEY REGIONAL)
DISTRICT by its authorized signatories)
)
)
_____)
Lori Iannidinardo, Chair)
)
)
_____)
Angie Legault, Corporate Officer)

SCHEDULE "A"
Financial Contribution

1. The payment of the Financial Contribution for any year of the Term is subject to the CVRD Board's approval of the Annual Report/Work Plan.
2. The Financial Contribution paid to CHA will be subject to a deduction for the CVRD's government administrative fee for each year of the Term, as detailed in the CVRD's Recovery of General Government Administration Charges Policy (the "Policy"). The government administration fee will be 2% of the Financial Contribution for the first year of the Term but may be subject to change in accordance with changes to the Policy as approved by the CVRD Board.
3. The CVRD Board may withhold the Financial Contribution in whole or in part until it is satisfied with and approves the Annual Report/Work Plan. The CVRD will make reasonable efforts to ensure said approval process is conducted in a timely manner, in accordance with the CVRD's standard budget and grant approval process.
4. Subject to receipt and approval of the Annual Report/Workplan, the Annual Operating Contribution will be transferred to the CHA as follows:
 - (a) 2022 – 50% in April and 50% in August
 - (b) 2023 – 100% in August.
5. The CVRD will hold the Annual Housing Fund Contribution in a separate account, called the Housing Fund, until funds are disbursed from that Housing Fund to the CHA in accordance with the requirements of this Schedule A. The CVRD will deposit the Annual Housing Fund Contribution into the Housing Fund following the CVRD's receipt of funds requisitioned through property taxes levied under the Bylaw, or about August 1 of each year.
6. Any disbursement from the Housing Fund to the CHA is subject to the following conditions:
 - (a) the funds disbursed from the Housing Fund shall be used by the CHA for a Housing Fund project, approved by the Board in an Annual Report/Work Plan and if the Housing Fund Project was not approved by the Board in an Annual Report/Work Plan, the CHA shall obtain Board approval before the funds are disbursed; and
 - (b) CHA must provide to the CVRD any documentation reasonably requested including contracts, invoices and other documents to demonstrate the funds are used for an approved Housing Fund Project.

SCHEDULE "B"
Services

The intent of this Agreement is that the CHA will use the Financial Contribution to provide the following services:

1. A housing fund to be used for the following purposes:
 - (a) to help housing developers and community groups in developing affordable housing
 - (b) to build affordable rental housing stock as well as shelters
 - (c) to enhance community contributions and partnerships in order to leverage funding resources and in-kind services
 - (d) for housing emergencies due to an influx of demand (evictions) or a sudden loss of supply (fire or floods)
 - (e) to bridge the gap between provincial/ red cross funding.

(the "**Housing Fund Program**")

2. Operating programs including research and community outreach for the purpose of planning, housing development coordination and housing loss prevention (the "**Operating Programs**").

3. The management and administration of the CHA including:

- (a) development and management of governance structure;
- (b) financial management;
- (c) human resource management;
- (d) preparation and presentation of the Annual Report/Work Plan; and
- (e) general overhead costs including but not limited to office supplies, rent, utilities and taxes;

(**CHA Maintenance and Administration**).

SCHEDULE "C"

Annual Report and Work Plan

1. The CHA shall, during each year of the Term, submit to the CVRD for its consideration and approval as part of the CVRD's annual budget approval process an annual report, work plan and budget (the "**Annual Report/Work Plan**") by July 31 which must include:
 - (a) a report on the Services provided by the CHA during the previous year, including a financial report on the use of the previous year's Financial Contribution;
 - (b) the annual financial statements of the CHA as approved by the CHA Board of Directors;
 - (c) the CHA's plan for the provision of Housing Fund Programs and Operating Programs for the next CHA Fiscal Year, and the corresponding budget including the following information:
 - i) the amount of the requested Annual Housing Fund Contribution up to \$500,000
 - ii) projects and budget for the Housing Fund Program;
 - iii) projects and budget for the Operating Programs;
 - (d) a budget for CHA Maintenance and Administration.
2. The CHA will present the Annual Report/Work Plan to the CVRD Board each year of the Term, on a date set by the CVRD.

