



## REPORT TO HIGHLAND WATER AND SEWER (MALIVIEW) SERVICES COMMISSION MEETING OF THURSDAY OCTOBER 22, 2020

**SUBJECT**     **Maliview Wastewater Treatment Plant Upgrade Loan Authorization and Amend Service Establishment - Process and Next Steps**

### **ISSUE SUMMARY**

To seek approval to proceed with a loan authorization, community consultation, and referendum process to advance the Maliview wastewater treatment plant upgrade and supporting documentation for the Investing in Canada Infrastructure Program grant application (ICIP).

### **BACKGROUND**

The CRD is submitting an ICIP grant under the Rural and Northern Communities Program Funding stream. The ICIP program targets capital infrastructure projects in communities with a population of 25,000 or less. The Maliview wastewater treatment plan upgrade qualifies under one of the federal outcomes for green infrastructure – environmental quality for increased capacity to treat and or manage wastewater for public use and benefit. The wastewater project must result in wastewater effluent that meets the *Wastewater Systems Effluent Regulations*, or provincial regulations where there is a federal equivalency agreement in place. Projects must be completed in five years following approval (March 31, 2026). The ICIP deadline for submission is **October 22, 2020**.

The funding provided towards infrastructure projects is a three way cost share between federal and provincial partners the local government. Applicants must be prepared to finance project construction and their cost-share of the project, as well as cover any cost over-runs. The funding split is as follows:

**Table 1: Program Funding Splits**

<i>Ultimate Recipient</i>	<i>Federal</i>	<i>Provincial</i>	<i>Total Senior Gov't Contribution (up to)</i>	<i>Ultimate Recipient Contribution (up to)</i>
Local government with a population between 5,000 - 25,000	50%	40%	90%	10%

One of the requirements of the ICIP is a resolution/bylaw identifying the source of the proponent's share of the project costs including sufficient funds for cost overruns. The resolution should show the support for the project from the CRD Board. The resolution is to be submitted as part of the application package, or within **one month** after the submission deadline due to timing of CRD Board meetings.

The CRD must also submit evidence that their full share of funding has been or will be secured. This evidence may be in the form of staff reports and/or resolutions of board/council directing the use of reserve funds, and for local governments who are recovering their share of funding through borrowing, a loan authorization bylaw that has **received third reading**, and/or a date that borrowing has been approved through a formal public approval process and a copy of the related bylaw.

The Maliview wastewater treatment upgrade conceptual designs provided a total construction cost approximately \$1.65 million (class C cost estimates with up to  $\pm 25\%$ -40%). Once the project budget (CE 582.4501) is approved, staff will proceed with detailed designs, geotechnical/underground investigation, and communicating with the regulator, a Class A cost estimate of  $\pm 10\%$ -15% will be provided from final drawings and specifications for a tender ready project.

To fund the local government's share of the ICIP is as follows:

<b>Maliview WWTP Upgrading Project Cost Estimate</b>	
WWTP Upgrading Construction (Labour and Materials) <sup>1</sup>	\$1,650,000
Engineering, Quality Assurance and Project Management (12%)	\$49,500
Contingency (40%) <sup>2</sup>	\$509,850
<b>Total Estimated Cost</b>	<b>\$2,209,350</b>

1. Cost Estimation is based on conceptual/preliminary design as of September 2020 (Class C,  $\pm 25\%$  - 40%)
2. 40% contingency is allowed due to uncertainties and risks associated with underground conditions and regulatory approval as well as preliminary analysis and design from conceptual/preliminary design project.
3. If the contingency funds are not needed for the upgrading of WWTP, remaining funds will be used towards the repair/replacement of the collection system pipes (up to \$200,000, for prioritized areas/sections).

Recipients of grant funding will be responsible for ineligible costs, managing project risks, including cost increases, as the ICIP is not designed to deal with cost overruns. Any project cost increases will be the responsibility of the Ultimate Recipient.

Where applicants plan to use or have applied for funds from other federal or provincial programs, the source of these funds must be disclosed. Applicants who have confirmed or identified potential sources of other senior government funding for their project should note that the ICIP program is subject to federal stacking rules. Federal funding towards the project is limited to the Government of Canada contribution in Table 1, from all federal sources. Community Works Funds count towards the federal contribution for these purposes and will not be able to be utilized for the Ultimate Recipient's funding contribution to the project.

The next steps required to move the wastewater upgrade work forward is to decide on which loan authorization option to proceed with to support the ICIP grant, the method of electoral assent for borrowing, and next steps for community engagement.

## **ALTERNATIVES**

### *Alternative 1*

The Highland Water and Sewer Local Service Area recommends the Electoral Areas Committee recommends to the Capital Regional District Board:

1. That Bylaw 4370, "Maliview Sewer System Loan Authorization Bylaw No. 1, 2020" be introduced and read a first, second, and third time.

2. That Bylaw 4373, "Maliview Estates Sewerage Local Service Establishment Bylaw No. 1, 1991, Amendment Bylaw No. 1, 2020" be introduced and read a first, second, and third time.
3. Present the project and funding option to the ratepayers in the first quarter of 2021; and bring forward a report to the Commission on the results of the public engagement, and ratepayer's preferred electoral assent process.

#### *Alternative 2*

The Highland Water and Sewer Local Service Area recommends the Electoral Areas Committee recommend to the Capital Regional District Board:

1. Approve Bylaw 4370 loan authorization for \$221,000 and amortization period of 25 years for the Highland Water and Sewer Local Service Commission Maliview wastewater treatment plant upgrade; and
2. That Bylaw 4373, "Maliview Estates Sewerage Local Service Establishment Bylaw No. 1, 1991, Amendment Bylaw No. 1, 2020" be introduced and read a first, second, and third time.
3. Present the project and funding option to the ratepayers in the first quarter of 2021; and bring forward a report to the Commission on the results of the public engagement, and ratepayer's preferred electoral assent process.

#### *Alternative 3*

That this report be referred back to staff for additional information.

### **IMPLICATIONS**

#### *Financial Implications*

Currently there is no parcel tax within the Maliview sewer service area, the service budget is funded by user charge only from the properties connected to the system. The estimated new debt servicing cost is proposed to be funded by a new parcel tax requisition from all the taxable folios in the service area (94 taxable folios as of September 2020).

Long-term debt for all BC municipalities, including regional districts, must be arranged through the Municipal Finance Authority (MFA). MFA issues debenture debt for an initial term of only ten (10) years, irrespective of the total term of the debt. If the total term to maturity selected exceeds ten (10) years, the principle and interest would be subject to renewal in 5 years increments thereafter the first ten (10) year term. The maximum term MFA offers is 30 years.

For analytic purpose only, the estimated debt servicing cost alternatives under four different amortization term scenarios is simulated and shown below based on the indicative interest rates published on MFA website as of September 23, 2020.

<b>Alternative 1</b>	<b>Amortizations</b>			
<b>Loan Authorization \$2,210,000</b>	<b>15 year</b>	<b>20 year</b>	<b>25 year</b>	<b>30 year</b>
Estimated Interest Rate	1.93%	2.24%	2.24%	2.24%
Cost of Borrowing \$	381,580	644,932	808,281	974,373
Annual Debt Payment \$	172,772	142,747	120,731	106,146
Annual Parcel Tax per taxable folio \$	1,838	\$1,519	1,284	1,129

<b>Alternative 2</b>	<b>Amortizations</b>			
<b>Loan Authorization \$221,000</b>	<b>15 year</b>	<b>20 year</b>	<b>25 year</b>	<b>30 year</b>
Estimated Interest Rate	1.93%	2.24%	2.24%	2.24%
Cost of Borrowing \$	38,158	64,493	80,828	97,437
Annual Debt Payment \$	17,277	14,275	12,073	10,615
Annual Parcel Tax per taxable folio \$	184	152	128	113

The longer amortization term will minimize the annual debt payments, but it results in higher total cost of borrowing and higher future interest risk exposure. A debt term of 15 years mitigates interest rate risk to only one subsequent renewal period. CRD staff consider multiple guidelines on each issue with respect to term maturity, including the interest risk exposure, estimated useful life of the infrastructure and the overall impact of both the annual debt payment costs and total cost of borrowing.

The Maliview wastewater system requires corrective actions to bring the system into compliance with both the federal *Fisheries Act* and provincial *Municipal Wastewater Regulations* requirements. The capital upgrades comply with the CRD's October 22, 2019, corrective action plan to bring the wastewater plant into regulatory compliance.

There are currently insufficient funds in the Capital Reserve (\$23,223 as of September 30, 2020) to fund the proposed work; therefore it is recommended to fund the project through a loan authorization bylaw.

### *Service Establishment*

The Maliview system was established as a specified area in 1979 and converted to a local area service in 1991 to operate a collection conveyance, treatment and disposal of sewage. The CRD may levy a tax requisition on the ratepayers in the Maliview service area to fund the annual operating costs and transfers to reserves for the service. The current maximum tax levy is greater of \$20,000 or \$2.50/\$1,000 on actual assessed value of land and improvements to a maximum of \$114,344 based on 2020 assessment. The Maliview service does not have sufficient room in the tax levy to meet the debt servicing costs for the proposed \$2.1 million loan authorization. The existing service establishment bylaw (1938) requires an amendment to allow an increase to the maximum requisition to cover the costs for debt servicing and future infrastructure improvements. It is proposed that the debt servicing be funded by a single amount Parcel Tax to pay an equal share for the plant upgrade and collection repairs.

Under the *Local Government Act* (LGA) electorate approval is required in order to proceed with an amendment to the service establishment bylaw along with the loan authorization bylaw. A referendum question for both the loan authorization and service establishment amendment will be proposed in an electoral assent process to approve the upgrade. Staff are recommending increasing the maximum requisition to \$250,000.

### *Alternative 1*

It is recommended the Commission proceed with Alternative one and seek electoral assent for borrowing the total capital costs and should a grant be awarded it will reduce the overall borrowing requirements for the project.

1. The grant is not guaranteed and will be a very competitive.
2. If the grant is not awarded the capital upgrade is still required.
3. ICIP requires a secured funding plan for the replacement within the application to support the cost of the project. The funding plan is to include sufficient funds to cover all eligible costs, cost overruns beyond budget contingencies, ongoing operational costs associated with the project.
4. ICIP will not consider applications if the project represents a risk to the program funder if there is a potential for the project not to proceed should there be applicant funding difficulties; the project does not have public support; and the applicant does not demonstrate they are able to manage, maintain, and finance the project over the long term.
5. ICIP will not weight scoring of the grant should the ratepayers demonstrate their willingness to fund the entire project costs.
6. The loan authorization bylaw can be held at third reading and amended to a lesser amount upon grant award.

### *Alternative 2*

Alternative two is less expensive, however, the risk is should the grant not be awarded the ratepayers will be required to fund the entire project costs. It may require a second electoral assent process to borrow the total costs.

## **Funding Approval Options**

There are two options for approval of a loan authorization bylaw under the LGA to undertake this project:

1. Alternative Approval Process
2. Referendum Process

### **Alternative Approval Process (AAP)**

Local/regional governments can use the Alternative Approval Process under Section 345 of the LGA to obtain participating area approval of a loan authorization bylaw. It is most commonly used in relation to long-term borrowing bylaws as it is a less expensive option than using a referendum. If more than 10% of the affected electors sign a counter-petition opposing the bylaw, a referendum must be held if the Committee still wishes to adopt it. Proceeding to referendum voting must occur no later than 80 days after the deadline established for submitting elector response forms during the AAP.

Based on the above tentative schedule the AAP would take approximately six (6) months, and would cost approximately \$20,000.

### **Referendum Process**

The referendum process is typically used to seek approval by assent of the electors, Section 407 of the LGA, where for a participating area, a majority of the valid votes are counted in favour of the bylaw to fund a project. Typically, a referendum question is developed and then reviewed by the Inspector of Municipalities at the province, requesting the electors to approve the borrowing of a specified amount of funds for the project. If electoral assent is not received local government must wait at least six (6) months before seeking elector assent on another bylaw for the same purpose in a referendum. In special circumstances, the local government may request approval from the Minister to hold another assent voting opportunity sooner.

Based on the above tentative schedule, the referendum would take approximately seven (7) months, and would cost approximately \$60,000. Under current COVID conditions referendum cost have escalated as legislative services may be required to hire an auxiliary staff to assist as the CRD does not have sufficient capacity to support Board and Commissions as well as an approval process during COVID. Additional cost for barriers between polling staff and electors seems to be setting a "standard" of masks, face shields, and protective barriers. Also there may be difficulty in finding staff to work elections during a pandemic (perhaps, even a need to increase pay for staff). Due to the pandemic, the CRD anticipates an increase in mail ballots which would have a significant impact on staff time in processing the ballots.

### **Implications of an Unsuccessful AAP or Referendum**

If the above-noted processes are unsuccessful, the CRD Board may face an order from the federal and provincial regulators for the work based the level of risk/liability due to non-compliance when failure occurs and an illegal discharge occurs. Under section 180 of the *Community Charter* the CRD will be authorized to borrow sufficient funds without electoral assent for works required should an environmental protection order be issued. It is highly likely an order will be issued as the CRD has received a warning from both federal and provincial regulators.

### **Public Engagement**

Due to the financial impact of the alternatives on the taxpayers, there is a need for public engagement to inform the stakeholders of the issues, alternatives, impacts and timeline for the process. The exact form and extent of this process will be developed once the Commission decides on the preferred borrowing alternative.

The CRD follows the Public Participation Spectrum developed by the International Association for Public Participation (IAP2) as a model for developing our public engagement strategy. The spectrum outlines varying levels of public participation: inform, consult, involve, collaborate and empower. Even though the taxpayers are empowered by default through an electoral assent process, at this point in the public engagement process, staff advise focusing on informing and consulting with the ratepayers to provide them with information needed to assist them in making an informed decision. During the process, a method of obtaining public feedback will be an important factor in order to determine the community understanding of the project, gauge their

support for borrowing, and their preference for the method to seek electoral assent (AAP or referendum)

The project timeline and electoral assent processes are outlined in Appendix A and B.

## **CONCLUSION**

The Maliview wastewater system was originally constructed in the early 1970s. Since its original construction, there were modifications and upgrades to the system to address performance issues. The existing plant has been experiencing difficulties in consistently meeting the permitted treatment quality requirements. The plant upgrade is needed to address non-compliance violations. The total cost of the project is estimated at \$2,210,000 and staff will be submitting an application for up to 90% ICIP grant funding towards the cost of the project that is intended to increase the plant's capacity to treat and/or manage wastewater. Should the CRD be successful in an ICIP grant award it will reduce the overall borrowing requirements for the project.

## **RECOMMENDATION**

The Highland Water and Sewer Local Service Area recommends the Electoral Areas Committee recommends to the Capital Regional District Board:

1. That Bylaw 4370, "Maliview Sewer System Loan Authorization Bylaw No. 1, 2020" be introduced and read a first, second, and third time.
2. That Bylaw 4373, "Maliview Estates Sewerage Local Service Establishment Bylaw No. 1, 1991, Amendment Bylaw No. 1, 2020" be introduced and read a first, second, and third time.
3. Present the project and funding option to the ratepayers in the first quarter of 2021; and bring forward a report to the Commission on the results of the public engagement, and ratepayer's preferred electoral assent process.

Submitted by:	Karla Campbell, BPA, Senior Manager, Salt Spring Electoral Area
Concurrence:	Rianna Lachance, BCom, CPA, CA, Senior Manager, Financial Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

## **ATTACHMENT(S)**

Appendix A: Referendum Process

Appendix B: Alternative Approval Process

Appendix C: Draft bylaw 4370 - Loan Authorization Bylaw

Appendix D: Draft bylaw 4373 - Maliview Service Establishment Bylaw Amendment

**APPENDIX A****REFERENDUM PROCESS**

1. Maliview to decide on loan option and amortization period	October 22
2. Submit ICIP grant application	October 22
3. CRD Board approval of three readings of Loan Authorization Bylaw	November 18
4. Send Loan Authorization bylaw to Inspector of Municipality	November 19
5. Prepare Public Engagement Strategy and Educational Materials	December
6. Open House to Update Ratepayers on the Project and Referendum	January 2021
7. Commission to Review Results of Public Feedback from Open House and determine Electoral Assent Process	February
8. CRD Board to establish Referendum question, polls, and Election Officer	March 10
9. Prepare Mail-out to include with utility bill – Referendum Notice	April 1
10. Approval of Inspector of Municipalities	mid-April
11. Advertise official notices 30 days prior to Referendum	May 19
12. Advance voting	June 9 & 16
13. Referendum Voting Day	June 19
14. Board receives Referendum results; if successful, adopts bylaws	July 14
15. 30-day quashing period ends	August 19
16. Apply for Certificate of Approval	August 20
17. Prepare construction tender	Sept – October
18. Secure initial draw on MFA Loan	November



**APPENDIX B****ALTERNATIVE APPROVAL PROCESS**

1.	Maliview to decide on loan option and amortization period	October 22
2.	Submit ICIP grant application	October 22
3.	CRD Board approval of three readings of Loan Authorization Bylaw	November 18
4.	Send Loan Authorization bylaw to Inspector of Municipality	November 19
5.	Prepare Public Engagement Strategy and Educational Materials	December
6.	Open House to Update Ratepayers on the Project and Referendum	January 2021
7.	Commission to Review Results of Public Feedback from Open House and determine Electoral Assent Process	February
8.	CRD Board to establish deadline for receiving elector response forms; authorizes approval of electors in local area service; and establishes total number of electors and elector response form	March 10
9.	Approval of Inspector of Municipalities	mid-April
10.	Issue Notice of Alternative Approval Process by way of publication in two consecutive editions of the newspaper	March 31 & April 7
11.	Deadline for receiving elector response forms.	May 7
12.	Board receives Certificate of Results and adopts bylaw	June 9
13.	30-day quashing period ends	July 9
14.	Apply for Certificate of Approval	July 12
15.	Prepare construction tender	Aug - Sept
16.	Secure initial draw on MFA Loan	November

CAPITAL REGIONAL DISTRICT

BYLAW NO. 4370

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**A BYLAW TO AUTHORIZE THE BORROWING OF  
TWO MILLION TWO HUNDRED AND TEN DOLLARS (\$2,210,000)  
FOR THE MALIVIEW SEWER SYSTEM RENEWAL AND UPGRADE**

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WHEREAS:

- A. Under Bylaw No. 1938, "Maliview Estates Sewerage Local Service Establishment Bylaw, 1991", the Capital Regional District established a local service for the operation of a service for the collection, conveyance, treatment and disposal of sewage;
- B. The Maliview wastewater system requires capital renewal and upgrades, which will involve the planning, study, project administration, project communications, and staff time required for design and construction of facilities, design and construction of facilities for the collection, conveyance, treatment and disposal of wastewater, as well as other related works, facilities and equipment purchases;
- C. The estimated cost of the works, facilities and equipment, including expenses incidental thereto to be funded from debt servicing, is the sum of Two Million Two Hundred and Ten Thousand Dollars (\$2,210,000) which is the amount of debt intended to be authorized by this bylaw, subject to receiving funding from other sources;
- D. It is proposed that the financing of the said sewerage system facilities is to be undertaken by the Municipal Finance Authority of British Columbia pursuant to proposed agreements between that Authority and the Capital Regional District;
- E. Pursuant to Section 407 of the *Local Government Act*, participating area approval is required and shall be obtained by alternative approval process under Section 345 of the *Local Government Act*; and
- F. The approval of the Inspector of Municipalities is required under Section 403 of the *Local Government Act*.

NOW THEREFORE the Board of the Capital Regional District in open meeting assembled enacts as follows:

- 1. The Board is hereby empowered and authorized to undertake and carry out or cause to be carried out the capital renewal and upgrade of the Maliview sewerage wastewater system, which will involve the planning, study, project administration, project communications, staff time required for design and construction of facilities, design and construction of facilities for the collection, conveyance, treatment and disposal of wastewater, as well as other related works, facilities and equipment purchases:
  - (a) to borrow upon the credit of the Capital Regional District a sum not exceeding Two Million Two Hundred and Ten Thousand Dollars (\$2,210,000);

- (b) to acquire all such real property, easements, rights-of-way, leases, licenses, rights or authorities as may be requisite or desirable for or in connection with the planning, study, design and construction of a system for the collection, conveyance, treatment and disposal of sewage and all related ancillary works, studies and equipment deemed necessary by the Board.
2. The maximum term for which debentures may be issued to secure the debt intended to be created by this bylaw is 20 years.
3. This Bylaw may be cited as the "Maliview Sewer System Loan Authorization Bylaw No. 1, 2020".

READ A FIRST TIME THIS	___	day of	_____	202_
READ A SECOND TIME THIS	___	day of	_____	202_
READ A THIRD TIME THIS	___	day of	_____	202_
APPROVED BY THE INSPECTOR OF MUNICIPALITIES THIS	—	day of	_____	202_
RECEIVED THE ASSENT OF THE ELECTORS UNDER SECTION 345 of the <i>LOCAL GOVERNMENT ACT</i> THIS	___	day of	_____	202_
ADOPTED THIS	___	day of	_____	202_

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
CORPORATE OFFICER

FILED WITH THE INSPECTOR OF MUNICIPALITIES THIS \_\_\_ day of \_\_\_ 2020

**CAPITAL REGIONAL DISTRICT  
BYLAW NO. 4373**

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**A BYLAW TO AMEND BYLAW 1938, "MALIVIEW ESTATES SEWERAGE  
LOCAL SERVICE ESTABLISHMENT BYLAW NO. 1, 1991"**

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**WHEREAS:**

- A. Under Bylaw No. 1938, Maliview Estates Sewerage Local Service Establishment Bylaw No. 1, 1991, the Regional Board converted a specified area to a local service operated by establishing bylaw for the collection, conveyance, treatment, and disposal of sewage;
- B. The Board wishes to amend Bylaw No. 1938 to ensure funds are available for maintenance, operation, upgrades, and to ensure compliance with modernized cost-recovery language;
- C. Elector approval is required for these changes and may be given by the Electoral Area Director consenting on behalf pursuant to ss. 347(2) and 349 of the *Local Government Act*;

The Board of the Capital Regional District in open meeting assembled enacts as follows:

- 1. Bylaw No. 1938, "Maliview Estates Sewerage Local Service Establishment Bylaw No. 1, 1991" is hereby amended as follows:
  - (a) By deleting Section 3 in its entirety and replacing it with the following:
    - 3. The annual costs for the local service, net of grants and other revenues shall be recovered by one or more of the following:
      - (a) by the requisition of money under Section 378(1)(a) of the *Local Government Act*;
      - (b) by Parcel Tax under Section 378(1)(b) of the *Local Government Act*;
      - (c) fees and charges imposed under Section 397 of the *Local Government Act*;
      - (d) revenues raised by other means authorized by the *Local Government Act* or another Act; or
      - (e) revenues received by agreement, enterprise, gift, grant or otherwise.
  - (b) By deleting Section 4 in its entirety and replacing it with the following:
    - 4. In accordance with Section 339(1) of the *Local Government Act*, the maximum amount that may be requisitioned for the Local Service will be the greater of:
      - (a) Two Hundred Fifty Thousand Dollars (\$250,000); or
      - (b) an amount equal to the amount that could be raised by a property value tax rate of \$5.466 per One Thousand Dollars (\$1,000) when applied to the net taxable value of land and improvements in the Service Area.
  - (c) By deleting Section 5 in its entirety and renumbering the remaining sections accordingly..

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|---|--------|------|
| READ A FIRST TIME THIS                              | day of | 2020 |
| READ A SECOND TIME THIS                             | day of | 2020 |
| READ A THIRD TIME THIS                              | day of | 2020 |
| APPROVED BY THE<br>INSPECTOR OF MUNICIPALITIES THIS | day of | 2020 |
| RECEIVED ASSENT OF THE ELECTORS THIS                | day of | 2020 |
| ADOPTED THIS  | day of | 2020 |

CORPORATE OFFICER

FILED WITH THE INSPECTOR OF MUNICIPALITIES THIS                      day of                      2020

**CAPITAL REGIONAL DISTRICT  
BYLAW NO. 4373**

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LOCAL SERVICE ESTABLISHMENT BYLAW NO. 1, 1991"**

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| RECEIVED ASSENT OF THE ELECTORS THIS                | day of | 2020 |
| ADOPTED THIS  | day of | 2020 |

CORPORATE OFFICER

FILED WITH THE INSPECTOR OF MUNICIPALITIES THIS                      day of                      2020