

REGIONAL DISTRICT GRANT AGREEMENT

THIS AGREEMENT dated for reference the 14 day of July, 2014.

BETWEEN:

CAPITAL REGIONAL DISTRICT
625 Fisgard Street
Victoria, BC V8W 2S6
(the "CRD")

OF THE FIRST PART

AND:

ISLAND CORRIDOR FOUNDATION
Box 375 Stn A
Nanaimo, BC
V9R 5L3
(the "Foundation")

OF THE SECOND PART

WHEREAS:

- A. The CRD wishes to provide the Foundation a maximum contribution of \$1,200,000 for Rail Infrastructure Improvements Project ("the Project");
- B. For the purposes of this agreement "the Project" is defined as the Rail Infrastructure Improvements identified as rail, rail ties, ballast and upgrades to a number of rail bridges, culverts and trestles all included in the \$20.9 million budget to be expensed from the \$20.9 million total budget on the Island Corridor Foundation lands lying between Victoria (mile 0) and Courtenay (mile 149.7).
- C. The parties hereto wish to enter into this Agreement that specifies the terms and conditions of the contribution.

NOW THEREFORE in consideration of the premises and mutual promises and other good and valuable consideration contained herein, the parties agree as follows:

1.0 Principles of Agreement

- 1.1 The CRD recognizes the Foundation's mandate to preserve the use of the rail corridor in perpetuity for the connection and benefit of all Island communities and First Nations along the corridor.
- 1.2 The Foundation recognizes the CRD's responsibility and accountability to the taxpayers within the CRD to ensure that funds provided as part of this contribution are being used for the purpose for which they were intended.

2.0 CRD's Statutory Discretion

2.1 Nothing in this Agreement shall be interpreted as prejudicing or impairing the CRD in the exercise of any statutory powers under the *Local Government Act* or the *Community Charter* or any other enactment, all of which may be exercised as if this Agreement had not been entered into.

3.0 Term

3.1 The term of this Agreement shall be for a period of two years commencing on the day of release of funds by the CRD, unless otherwise terminated as herein provided or for such additional term as agreed to by the parties.

4.0 Project

4.1 The Foundation shall use the contribution for the Project in accordance with the terms herein and subject to any applicable CRD Board approval conditions.

4.2 Without limiting the foregoing, the Foundation shall remain in good standing and following its annual general meeting in each year of the Term, provide a copy of its Annual Report to the CRD's Chief Administrative Officer (the "CAO").

5.0 Budget

5.1 The Foundation shall provide the CRD with a detailed financial plan to include a construction schedule with attached cash flow chart setting out all anticipated revenue and costs of the Foundation in relation to the Project undertaken (the "Budget").

6.0 Payments by the CRD

6.1 The amount to be paid by the CRD to the Foundation has been approved by the CRD Board subject to following conditions and guidelines:

- (a) Successful negotiation and confirmation of a new train service agreement with VIA Rail;
- (b) All five participating Regional Districts providing their respective share of the overall project funding;
- (c) Funding to be provided to the Foundation subject to Clause 6.1 (a) and (b) in two payments: the first \$600,000 in 2014 when the tendered project has been awarded and the second \$600,000 in 2015 in accordance to the construction schedule/cash flow chart referred to in Clause 5.1;
- (d) The Foundation will deliver to the CRD such written reports, information and content satisfactorily and prepared by a person acceptable to the CRD, as the CRD may from time to time request concerning either the progress of the project, including financial breakdowns of various components of the project or the financial condition of the Foundation.

6.2 The Foundation shall administer the funds received from CRD in accordance with the CRD-approved Budget guidelines for this project and shall not expend such funds

except as provided for in this Budget.

7.0 Other Funding

- 7.1 If the Foundation receives or has received other funding, for or in respect to the Project, from any other government or governmental body, person, firm or corporation, then the Foundation will forthwith provide the CRD with full and complete particulars thereof.

8.0 Financial Statements and Right to Audit

- 8.1 The Foundation shall prepare and maintain all books of account, budgets, records and financial statements, including all receipts and invoices supporting any expenditure on the Project, in accordance with generally accepted accounting principles applied on a consistent basis from year to year.
- 8.2 The funds provided by the CRD shall be separated from any other funds in the Foundation's books of account. The Foundation shall prepare at each year-end, financial statements setting out the Foundation's assets and liabilities as well as a statement of revenue and expenditures for the year. The Foundation shall deliver a copy of the financial statements to the CAO within 60 days of the Foundation's annual general meeting in April.
- 8.3 At any time, the CRD may give to the Foundation written notice that it wishes to examine all books of accounts of the Foundation, and the Foundation shall, within 10 days of receipt of such notice, provide to the CRD representative access to all records, documents, books, accounts and voucher of the Foundation and shall promptly provide to the CRD all information and explanations as may be, in the representative's opinion, necessary to ascertain the use of funds received from the CRD and the financial position of the Foundation.

9.0 Indemnity

- 9.1 The Foundation will at all times indemnify and save harmless the CRD its directors, officers and employees from and against all claims, actions, causes of action, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by any of them, at any time or times (whether such interest, fines or costs are court ordered or otherwise and whether before or after the expiration or termination of this Agreement) where the same or any of them are sustained in any way as a result of this Agreement, which indemnity will survive the expiration or sooner termination of this Agreement.

10.0 Funds may be Withheld in the Event of Breach

- 10.1 In the event that the Foundation is in breach of any of the terms of this Agreement and fails to cure such breach within 10 days of receipt of written notice from the CRD advising of the breach, the CRD may withhold all or part of the payment that otherwise would be made by the CRD under section 6.0 hereof.

11.0 Termination

- 11.1 The CRD may terminate this Agreement upon giving the Foundation 60 days' notice of

its intention to terminate if:

- (a) the Foundation fails to file its annual report or is otherwise no longer in good standing under *Part II of the Canada Corporations Act*;
- (b) the Foundation defaults or fails to perform any term or condition of this Agreement that is required to be performed by the Foundation; or
- (c) the Project is terminated or amended such that the Foundation is not the recipient of the contribution provided for thereunder.

12.0 Notices

- 12.1 Any notice to be given by one party to another will be in writing and may be delivered by hand or mailed by first class prepaid registered mail to the address set forth below, or such other address of which notice is given by a party pursuant to the provisions of this section. Such notice will be deemed to have been given and received when delivered if delivered by hand, or if by mail, then the notice shall be deemed to have been given and received on the expiration of four business days after it was posted.

If to the CRD:

Capital Regional District
625 Fisgard St
Victoria, BC
V8W 2S6
Attention: Chief Administrative Officer

If to the Foundation:

Island Corridor Foundation
Box 375 Stn A
Nanaimo, BC
V9R 5L3
Attention: Chief Executive Officer

13.0 Relationship of Parties

- 13.1 The parties agree that nothing in this Agreement shall be interpreted as creating nor shall create an agency relationship, joint venture, partnership or employment relationship between the CRD and the Foundation, its employees, agents or contractors.

14.0 Other Acts

- 14.1 The parties agree that they will do all such further acts, deeds or things and execute and deliver all such further documents as may be necessary or advisable for the purpose of assuring and confirming to the parties the rights hereby created or intended and of giving effect to and carrying out the intention of facilitating the performance of the terms of this Agreement.

15.0 Assignment

15.1 The Foundation may not assign, transfer or pledge all or any part of this Agreement.

16.0 No Deemed Waiver

16.1 The failure of either of the parties to insist on performance of any covenant or condition contained in this Agreement, or to exercise any right or option hereunder, shall not be construed or operate as a waiver or relinquishment for the future of any such covenant, condition, right or option and no waiver shall be inferred from or implied by anything done or omitted by any of the parties hereto, save only as an express waiver in writing.

17.0 Counterparts

17.1 This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the dates set out below.

ISLAND CORRIDOR FOUNDATION

by its authorized signatories:

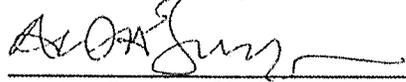


 Authorized Signatory

JUNE 20, 2014
 Date of Execution

CAPITAL REGIONAL DISTRICT

by its authorized signatories:



 Alastair Bryson, Chair

JULY 14, 2014
 Date of Execution



 Sofia Santarossa, Corporate Officer

AGREEMENT AUTHORIZATION

	Initial	Date
Content		Jun 22/14
Legal Form		Jun 26/14
Authority		07/07/14