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REPORT TO HOSPITALS AND HOUSING COMMITTEE MEETING OF WEDNESDAY, NOVEMBER 04, 2020

SUBJECT **Spencer Close Mortgage – Tri-Partite Agreement and Landlord Estoppel Certificate: 2763 Spencer Road**

ISSUE SUMMARY

BC Housing Management Commission (BCHMC) requires that the Capital Regional District (CRD) Board of Directors authorize the execution of the Tri-Partite Agreement and Landlord Estoppel Certificate in order for the Capital Region Housing Corporation (CRHC) to execute the Spencer Close mortgage documents.

BACKGROUND

In November 2018, the Regional Housing First Program (RHFP) partnership approved the Spencer Close development project, located at 2763 Spencer Road. At the same time the CRHC Board of Directors agreed that the CRHC would be operator of this property.

The CRD will purchase this property and hold 100% ownership. Canada Mortgage and Housing Corporation (CMHC) will provide a grant for 20% of the units through CMHC's contribution to the RHFP to the CRD. The CRHC will enter into a 60-year prepaid lease agreement with the CRD equal to the amount of the mortgage. The CRHC will also enter into an operator agreement with the CRD to ensure that the CRHC meets the terms of the RHFP. The CRHC will operate 100% of the units and will be responsible for financing the remaining 80% of the cost of the project. This will be financed through the BC Housing Community Partnership Initiative (CPI) Financing Program. Operations and debt financing will be paid for through the tenant rent revenue. No ongoing subsidy is required.

The final project budget is \$38,263,972. The approved project budget included a \$7,800,000 RHFP equity contribution, and a repayable \$30,463,972 mortgage. BC Housing projected interest rate forecast for 2021 is 2.25%.

As planned, the repayable mortgage will be charged initially as short-term financing and will convert to take-out financing in January 2021. Until January, a variable rate will be charged under the loan and a fixed rate during take-out financing. At the time of take-out financing, the mortgage documents will be modified to reflect the final amount, term, and interest rate.

Mortgage Documents Registered on Title

Mortgage registration requires registration of a Section 219 Covenant granted in favour of BCHMC and registered on title. A Section 219 Covenant is a means of preserving a property's special attribute; in this case, the use of the building for affordable housing. The conditions of the Section 219 Covenant are set out in the CPI Operating Agreement. The CPI Operating Agreement states that the CRHC will provide housing to households with low-to-moderate incomes.

Tri-Partite Agreement

The Tri-Partite Agreement, which forms part of the mortgage documents, is an agreement between the CRD, the CRHC, and BCHMC. This agreement overlaps with the Landlord Estoppel Certificate and is in place because the land and improvements will be leased to the CRHC by the CRD. As a condition of making the loan, the lender wishes to use this Tri-Partite Agreement to set out rights and obligations relating to the lease and mortgage. The agreement will ensure that the lease remains in force and in effect, and the parties agree to keep the lease in good standing. It also prevents the CRHC and the CRD from terminating their lease agreement without written consent of BCHMC.

ALTERNATIVES

Alternative 1:

The Hospitals and Housing Committee recommends to the Capital Regional District Board:

- a) That the resolutions required by BC Housing Management Commission to authorize the execution of the Tri-Partite Agreement and Landlord Estoppel Certificate for 2763 Spencer Road be approved; and
- b) That the Staff be authorized to execute any agreements with Capital Region Housing Corporation and BC Housing Management Commission and to take steps necessary to conclude the purchase of 2763 Spencer Road, Langford, BC.

Alternative 2:

That staff be directed to review other financing options based on Hospitals and Housing Committee direction.

IMPLICATIONS

Financial Implications

Short-term financing and take-out financing must be secured in order to advance the purchase of 2763 Spencer Road. The Tri-Partite Agreement and Landlord Estoppel Certificate forms part of the mortgage agreement and is a condition of financing.

CONCLUSION

CRHC must secure short-term and take-out financing to purchase the Spencer Close development project. The Tri-Partite Agreement and Landlord Estoppel Certificate must be in place in order to secure financing.

RECOMMENDATION

The Hospitals and Housing Committee recommends to the Capital Regional District Board:

- a) That the resolutions required by BC Housing Management Commission to authorize the execution of the Tri-Partite Agreement and Landlord Estoppel Certificate for 2763 Spencer Road be approved; and
- b) That the Staff be authorized to execute any agreements with Capital Region Housing Corporation and BC Housing Management Commission and to take steps necessary to conclude the purchase of 2763 Spencer Road, Langford, BC.

Submitted by:	Rob Fowles, Manager Construction & Capital Projects, Regional Housing
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager Planning & Protective Services
Concurrence:	Nelson Chan, MBA, CPA, CMA, Chief Financial Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENT(S)

Appendix A: Spencer Close Landlord Estoppel Certificate and Acknowledgement of Notice