

## LICENCE AGREEMENT

This Agreement made effective September 1, 2020 (the "Effective Date")

### BETWEEN:

**SCHOOL DISTRICT #64 (GULF ISLANDS)**

112 Rainbow Road,  
Salt Spring Island, BC V8K 2K3

("LICENSOR")

### AND

**CAPITAL REGIONAL DISTRICT (CRD)**

P O Box 1000,  
625 Fisgard Street,  
Victoria, BC V8W 2S6

("LICENSEE")

### BACKGROUND:

- A. The School District is the owner of the lands and premises located at 120 Kanaka Road and legally described as:

*Lot 1, Block 5, Section 2, Range 3 East, North Salt Spring Island, Cowichan District, Plan 6224, PID 005-885-272*

(the "**Lands**")

- B. The parties enter into a Licence of Use agreement (the "**Agreement**") dated December 14<sup>th</sup>, 2004 for the School District to provide the Lands for the CRD to develop a community skateboard park facility, and for both parties to share the responsibility of operating and maintaining the facility.
- C. The parties subsequently renewed the Agreement in 2009, 2010 and finally in 2015.
- D. The parties wish to continue the arrangement and have agreed to enter into a new licence.

IN CONSIDERATION OF the mutual covenants and agreements in this Agreement, the parties covenant and agree as follows:

### 1. GRANT

The School District, subject to the performance and observance by the Licensee hereby grants to Licensee a Licence (the "**Licence**") for its employees, agents, contractors and invitees to use enter and be upon the areas identified on the sketch plan attached as Schedule A consisting of :

- (a) The area of the Lands shown in heavy outline on Schedule A; and

- (b) The outdoor skateboard park (the "**Facility**") shown within the area outlined in dashed outline on Schedule A.

(collectively the "**Licence Area**")

## **2. TERM AND EXPIRATION DATE**

The Licence becomes effective on the Effective Date, notwithstanding the actual dates of execution by the parties, subject to the other terms and conditions set out in this Agreement, and unless terminated earlier in accordance with the other terms and conditions set out in this Agreement, the Licence will be for a term of five (5) years (the "**Term**") and will terminate on August 31, 2025 unless renewed pursuant to section 14 herein.

## **3. PURPOSE**

Subject to the terms and conditions of this Agreement, the Licence is granted for the purpose of:

- (a) Skateboard park activities and;
- (b) Managing and operating the Facility during non-regular school days and hours for the use of the general public and;
- (c) To enter on, pass and re-pass and park vehicles over such of the Land as is reasonable necessary in connection with its use of the Licence Area.

For certainty, the School District has agreed to take responsibility for operation of the Facility during regular school days and school hours. Regular school days and school hours are defined as Monday to Thursday from 7:30am to 4:00pm, with the exception of statutory holidays.

## **4. FEES**

In consideration of the sum of Ten (\$10.00) dollars of lawful money of Canada for the Term, now paid by the Licensee to the School District (the receipt and sufficiency of which is hereby acknowledged by the School District).

## **5. RESERVATION OF RIGHTS**

The School District hereby reserves to itself from the grant and the covenants made by it to the Licensee in this agreement, the right for the School District, its duly authorized employees and contractors and invitees to have full and complete access to the Licence Area to carry out any operations associated with the School District's use of the Licence Area.

## **6. REPAIRS, MAINTENANCE AND INSPECTION**

- (a) The Licensee shall be responsible for day-to-day maintenance of the Licence Area during non-regular school days and hours.
- (b) The Licensee shall be responsible for assessment of long-term maintenance, life-cycle replacement and emergency repair requirements of the Licence Area.
- (c) The School District and the Licensee mutually agree to share the cost of major repair items that become necessary in the Licence Area.

- (d) The Licensee shall be responsible for inspection of the Licence Area during non-regular school days.

## **7. LIENS**

The Licensee will not suffer or permit any lien under the *Builders' Lien Act* or like statute to be registered against title to the Licence Area by reason of labour, services or materials supplied or claimed to have been supplied to the Licensee. If any such lien is registered, the Licensee will procure registration of its discharge immediately after the lien has come to the notice of the Licensee. The School District may, but will not be obliged to, discharge any such lien at any time if, in the School District's judgment, the Licence Area becomes liable to any forfeiture or sale or its otherwise in jeopardy and any amount paid by the School District in so doing, together with all reasonable costs and expenses of the School District, will be reimbursed to the School District by the Licensee immediately on demand.

## **8. UTILITIES**

The School District agrees to pay for all utilities serving the Licence Area.

## **9. FIXTURES AND IMPROVEMENTS**

That, unless the Licensee upon notice from the School District removes them, all building, structures or improvements constructed on the Licence Area by the Licensee, shall, at the termination of the Agreement, become the sole property of the School District at no cost to the School District.

## **10. COMPLIANCE WITH LAWS AND REGULATIONS**

The Licensee will comply with all laws, by-laws and regulations, Federal, Provincial or otherwise, applicable to the Licence Area and any work on improvements carried out in the Licence Area.

## **11. ASSUMPTION OF RISK AND LIABILITY**

- (a) The Licensee shall release, indemnify and save harmless the School District from and against all claims brought or recovered against or incurred by the School District arising out of or related to the Licensee's breach of this Licence, or by reason of any act or omission or alleged act or omission of the Licensee, its agents, employees, subcontractors or members during non-school days and hours.
- (b) The School District shall release, indemnify and save harmless the Licensee from and against all claims brought or recovered against or incurred by the Licensee arising out of or related to the School District's breach of this Licence, or by reason of any act or omission or alleged act or omission of the School District, its agents, employees, subcontractors or members, or by reason of the Licence Area by school students or staff, during school hours on the regular school calendar.
- (c) The School District shall release, indemnify and save harmless the Licensee and its elected and appointed officers, employees, agents and contractors from and against all claims, losses, demands, payments, suits, actions, damages, judgements and expenses, including legal fees, of every nature and description brought or recovered against or incurred by the Licensee and its elected and appointed officers, employees, agents and contractors arising out of or related to

the School District's negligence, omissions or alleged omission of requirements of the Inspection and Maintenance Program mutually agreed to between the two parties

## **12. INSURANCE**

The School District and the Licensee shall maintain Commercial General Liability insurance coverage during the term of the Licence.

## **13. TERMINATION AND SUSPENSION.**

- (a) If The Licensee defaults on its obligations under this Agreement, all privileges terminate 30 days after the School District gives notice of default to the Licensee, if the default is not remedied within such time. The School District's termination of this Agreement will not prejudice the School District's right to collect damages on account of Licensee's breach.
- (b) Any failure to exercise the School District's right to terminate this Agreement in case of default does not constitute a waiver of the Licensee's obligations to perform strictly in accordance with the terms of this Agreement. Any such right to terminate remains in effect and may be exercised as long as the default continues.
- (c) Subject to Clause 9, at the termination of the Licence, the Licensee shall clean up the Licence area and restore the surface of the Licence Area as reasonably as may be possible to the condition of the Licence Area prior to commencement of the term of the original agreement, provided that the Licensee shall not be obliged to remove the Facility
- (d) The Licensee may terminate the Licence at any time, for any reason, upon ninety days notice to the School District.

## **14. RENEWAL**

The Licensee will have the right to renew this Licence for One (1) further term of Five (5) years, on the same terms and conditions save and except rent and this Renewal provision, subject to provision by the Licensee to the School District of written notice of intent to renew not less than Six (6) months prior to expiry.

## **15. NON-ASSIGNMENT**

Neither this Agreement nor the privileges in it may be assigned by the Licensee, in whole or in part by operation of law or otherwise, without the prior written consent of The School District, which consent may be arbitrarily withheld. The Licensee will not sub-licence the Licence Area.

## **16. NO SPECIAL DAMAGES**

Neither party will be liable to the other for any consequential or indirect damages.

## **17. REGULATIONS**

The Licensee shall comply promptly at its own expense with the legal requirements of all authorities, and all notices issued under them that are served upon the School District and passed on to the Licensee.

**18. COMPENSATION**

The Licensee shall not be entitled to compensation for any loss or injurious affection or disturbance resulting in any way from the expiry or valid termination of this Licence or the loss of the Licensee's interest in any building, structure or improvement built or placed on the Licence Area.

**19. NOTICES**

All notices required under this Agreement will be delivered by hand to the party for which it is intended, sent by email, fax or sent by prepaid courier directed to such party at its address or fax number set out in this Agreement, or at such other address or fax number as either party may stipulate by written notice to the other. Any notice delivered by hand or prepaid courier will be deemed to be received on the date of actual delivery thereof.

**20. BINDING EFFECT**

This Agreement will enure to the benefit of, and will be binding upon, the respective successors and permitted assigns of the parties.

**21. GOVERNING LAW**

This Agreement will be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties will be governed by, the laws of the Province of British Columbia and the federal laws of Canada where applicable and the parties hereby attorn to the exclusive jurisdiction of the courts of the Province of British Columbia.

**22. COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each counterpart, when executed and delivered (whether by email fax or otherwise), will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first before written.

**CAPITAL REGIONAL DISTRICT**

**SCHOOL DISTRICT #64 (GULF ISLANDS)**

Per:   
Authorized Signatory

*Robert Lapham*  
*Chief Administrative Officer*  
*Capital Regional District*

Per:   
Authorized Signatory.

Jesse Guy  
Secretary Treasurer  
School District No. 64 (Gulf Islands)

# SCHEDULE A: LICENCE AREA

