

BYLAW NO. 239

A BYLAW TO AUTHORIZE ENTERING INTO AN AGREEMENT FOR THE ACQUISITION OF COMMUNITY PARKLAND WITHIN ELECTORAL AREA D

WHEREAS the former Comox-Strathcona Regional District has, by Bylaw No. 2093, established a community parks service applicable to Electoral Area D;

AND WHEREAS a bylaw of the aforesaid Comox-Strathcona Regional District that authorizes the operation of a service within all or part of the area comprising the Strathcona Regional District remains in force as a bylaw of the Strathcona Regional District;

AND WHEREAS the service established by Bylaw No. 2093 applies to part of the Strathcona Regional District;

AND WHEREAS the Regional Board wishes to authorize entering into an agreement for the acquisition of land located on Mitlenatch Drive within Electoral Area D (Oyster Bay-Buttle Lake) as community parkland;

NOW THEREFORE the Board of Directors of the Strathcona Regional District, in open meeting assembled, enacts as follows:

Acquisition Agreement Authorized

1. The Regional District is hereby authorized to enter into an agreement for the acquisition of real property described as Lot 7 of District Lot 89, Comox District, Plan 28932.

Form and Substance

2. The agreement referred to in section 1 shall substantially comply in form and substance with the agreement set out in Appendix 'A', attached to and forming part of this bylaw.

Parkland Designated

3. The real property described in this bylaw shall be designated as community parkland, to be held and managed accordingly, upon adoption of this bylaw.

Authority to Execute Agreement

4. The Chair and Corporate Officer shall have full authority to execute the agreement following adoption of this bylaw.

Effective Date

5. This bylaw shall come into effect on the day of its adoption.

Citation

6. This bylaw may be cited for all purpose as Bylaw No. 239, being Mitlenatch Drive Parkland Acquisition Authorization Bylaw 2015.

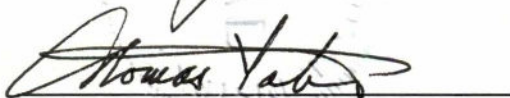
READ A FIRST TIME ON THE 12TH DAY OF NOVEMBER, 2015

READ A SECOND TIME ON THE 12TH DAY OF NOVEMBER, 2015

READ A THIRD TIME ON THE 12TH DAY OF NOVEMBER, 2015

RECONSIDERED, FINALLY PASSED AND ADOPTED ON THE 12TH DAY OF NOVEMBER, 2015

Chair

A handwritten signature in black ink, appearing to read "Thomas Vab", is written over a horizontal line.

Corporate Officer

GIFTING AGREEMENT

THIS AGREEMENT dated for reference the ____ day of _____, 2015.

BETWEEN:

KAMLESH DOAD

18285 67th Avenue
Surrey, BC V3S 0L9

(the "**Donor**")

OF THE FIRST PART

AND:

STRATHCONA REGIONAL DISTRICT

301 – 990 Cedar Street
Campbell River, BC V9W 7Z8

(the "**SRD**")

OF THE SECOND PART

WHEREAS:

- A. The Donor is the registered owner in fee simple of the following Lands:
- PID: 001-455-176
Lot 7, District Lot 89, Comox District, Plan 28932
- (the "**Lands**");
- B. The Donor wishes to see the Lands designated as park for the benefit of the community;
- C. The Donor has offered to donate, and the SRD has agreed to accept, the Lands on the terms and conditions set out in this agreement (the "**Agreement**").

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 with each other as follows:

1.0 DONATION

- 1.1 The Donor agrees that the Lands will be given as a gift to the SRD, free and clear of all liens, charges and encumbrances save and except the permitted encumbrances identified in Schedule "A" (the "**Permitted Encumbrances**"), subject to the terms of this Agreement.

2.0 TRANSFER OF LANDS

- 2.1 The Donor agrees to transfer the Lands to the SRD on or before the 31st day of December, 2015 (the "**Closing Date**").
- 2.2 The SRD shall, at the expense of the Donor, prepare all documents necessary to effect the transfer of the Lands prior to the Closing Date.
- 2.3 The Donor shall execute the documents in registrable form prepared under section 2.2 of this Agreement and deliver the same to the SRD's solicitor on or before the Closing Date.
- 2.4 The SRD shall, at the expense of the Donor, attend to the registration of the transfer documents transferring title to the Lands to the SRD in the Victoria Land Title Office on the Closing Date.
- 2.5 The Donor shall, within 30 (thirty) days of receiving an invoice from the SRD, pay to the SRD the reasonable costs referred to in this section 2.0.

3.0 TAX RECEIPT

- 3.1 The Donor and the SRD agree that the market value of the Lands is \$39,000, and the SRD hereby agrees to issue and deliver a tax receipt for the amount of \$39,000 to the Donor, in the form prescribed by the Canada Revenue Agency, upon the completion of the transfer of the Lands from the Donor to the SRD.

4.0 DONOR REPRESENTATIONS AND WARRANTIES

- 4.1 The Donor represents and warrants which representations and warranties shall survive closing and continue for the benefit of the SRD:
 - (a) the Donor is the registered and beneficial owner of the Lands and has the power and capacity to dispose of the same to the SRD; and
 - (b) the Lands will be free and clear of all liens, charges and encumbrances, save and except the Permitted Encumbrances, on the Closing Date.

5.0 RISK

- 5.1 The Lands shall be at the risk of the Donor until the completion of the transfer of the Lands on the Closing Date, and thereafter shall be at the risk of the SRD.

6.0 ADJUSTMENTS

- 6.1 The Donor and the SRD shall not make any adjustments with respect to property taxes, utilities, or any other amount normally adjusted between the vendor and purchaser of real property.

7.0 TIME

7.1 Time is of the essence of this Agreement.

8.0 NOTICE

8.1 Any notice required to be given under this Agreement by any party will be deemed to have been given if mailed by prepaid registered mail, or delivered to the address of the other party set forth on the first page of this Agreement or at such other address as the other party may from time to time direct in writing, and any such notice will be deemed to have been received if mailed seven (7) days after the time of mailing and, if delivered, upon the date of delivery. If normal mail service is interrupted by strike, slow down, force majeure or other cause, then a notice sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the notice must deliver such notice in order to ensure prompt receipt thereof.

9.0 CONDITION PRECEDENT

9.1 The obligation of the Donor and the SRD to complete the transfer of the Lands on the Closing Date is subject to the following condition precedent being satisfied or waived in writing by the SRD within the time specified:

(a) subject to approval of the SRD Board of the transfer of the Lands on the terms and conditions set out in this Agreement on or before the 31st day of December, 2015.

9.2 In consideration of Ten Dollars (\$10.00) non-refundable paid by the SRD to the Donor and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Donor, the Donor agrees that this Agreement is a binding obligation of the Donor on its terms and is neither revocable nor void notwithstanding that it remains subject to the condition precedent in section 9.1. The parties agree that this Agreement will become an unconditional contract for the transfer of the Lands upon the satisfaction of the condition precedent in section 9.1.

10.0 BINDING EFFECT

10.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors and permitted assigns. This Agreement may not be assigned by either party without the written consent of the other.

11.0 GOODS AND SERVICES TAX

11.1 The SRD is registered for purposes of the Goods and Services Tax ("GST") under No. 820327013. On the Closing Date, the SRD shall self-assess any GST payable and account directly to the Canada Revenue Agency for it, and shall provide a certificate to that effect to the Donor.

12.0 WAIVER

- 12.1 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.

13.0 HEADINGS

- 13.1 The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

14.0 LANGUAGE

- 14.1 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

15.0 CUMULATIVE REMEDIES

- 15.1 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

16.0 LAW APPLICABLE

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

17.0 ENTIRE AGREEMENT

- 17.1 This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date hereof with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect to the subject matter hereof and there are no oral or written agreements, promises, warranties, terms, conditions, representations or collateral agreements whatsoever, express or implied, other than those contained in this Agreement.

18.0 COUNTERPART

- 18.1 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.

SIGNED, SEALED and DELIVERED by
KAMLESH DOAD in the
presence of:

Signature

Name

Address

Occupation

Kamlesh Doad

STRATHCONA REGIONAL DISTRICT,
by its authorized signatory(ies):

Jim Abram, Board Chair

Tom Yates, Corporate Officer

SCHEDULE "A"

Permitted Encumbrances

As to the Lands:

1. Exceptions and Reservations contained in the original Crown Grant
2. Undersurface Rights #J88300 in favour of Her Majesty the Queen in Right of the Province of British Columbia
3. Restrictive Covenant D98077 in favour of Her Majesty the Queen in Right of the Province of British Columbia
4. Restrictive Covenant E67614