



DISTRICT OF SOOKE

BYLAW No. 408

CONSOLIDATED FOR REFERENCE

AUGUST 4, 2010

Bylaw No. 408, *Sooke Town Centre Revitalization Bylaw, 2009*
Bylaw No. 413, *Sooke Town Centre Revitalization Amendment Bylaw (408-1)*
Bylaw No. 451, *Sooke Town Centre Revitalization Amendment Bylaw (408-2)*

A bylaw to provide for a revitalization tax exemption, waiver of fees and charges and the creation of a capital improvement reserve to encourage commercial and higher density residential development in the Town Centre with a low environmental impact.

WHEREAS Council may, by bylaw, provide for a revitalization tax exemption program;

AND WHEREAS Council wishes to establish a revitalization tax exemption program in the Town Centre;

AND WHEREAS a revitalization tax exemption program bylaw may only be adopted after notice of the proposed bylaw has been given in accordance with the *Community Charter*, and Council has given this notice;

AND WHEREAS Council may provide for a lesser building permit fee and waive or reduce the development cost charge in the Revitalization Area;

AND WHEREAS Council wishes to establish a Town Centre Capital Improvement Financing Reserve.

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This Bylaw is cited as *Sooke Town Centre Revitalization Bylaw, 2009*.

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INTERPRETATION

2. In this Bylaw

Eligible Housing means

- a. not-for-profit rental housing, including supportive living housing;
- b. for-profit affordable rental housing, where “affordable” means the housing is subject to a covenant and housing agreement registered in the Land Title Office in favour of the District to restrict below fair market value the rents, lease, sale or share prices that may be charged, and the rates these may be increased over time;

Base Amount means the amount of municipal property value tax payable on a parcel located in the Revitalization Area during the Base Amount Year;

Base Amount Year means the calendar year prior to the first calendar year in respect of which an agreement set out in Schedule A applies to a parcel in the Revitalization Area;

Eligible Development means development that is described in both Sections 3(a) and 4;

Financial Officer means the person designated by Council as the municipal officer authorized to issue a Revitalization Tax Exemption Certificate under this bylaw;

Full Assessment means the amount of municipal property value tax that would be payable in respect of a parcel in the Revitalization Area after the calendar year during which an agreement set out in Schedule A is made, as if the agreement had never been made;

LEED Accredited Professional means an individual accredited by the Canada Green Building Council as a LEED Accredited Professional;

LEED Certified refers to an improvement certified in writing by the Canada Green Building Council (CAGBC) or the United States Green Building Council (USGBC) as complying with LEED Platinum, Gold, Silver or Certified standards for construction or an alteration of an improvement under the LEED Suite of Rating Systems administered by the CAGBC or the USGBC; *(amended by Bylaw No. 451 May 11, 2010)*

Revitalization Area means an area of the District of Sooke designated and shown on Schedule B.

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REVITALIZATION TAX EXEMPTION PROGRAM

3. There is established a Revitalization Tax Exemption Program which includes the following:
 - a. property value tax exemptions prescribed by this bylaw in respect of
 - i. construction of a new improvement that is LEED certified; or
 - ii. alteration of an existing improvement where the alteration results in the improvement being LEED certified. *(amended by Bylaw No. 451 May 11, 2010)*
 - b. the maximum exemption under this bylaw must not exceed the increase in the assessed value of land and improvements on the parcel between
 - i. the year before the construction or alteration began, and
 - ii. the year in which the tax exemption certificate under this bylaw is issued;
 - c. The maximum term of a Revitalization Tax Exemption is three years.
 - d. The amounts of exemptions provided under this bylaw are such that the municipal property value tax payable is as follows:
 - i. Year one: zero percent (0%);
 - ii. Year two: forty percent (40%);
 - iii. Year three: seventy percent (70%); and
 - iv. Year four and subsequent years: Full Assessment.
4. The classes of revitalization that will be eligible under 3 a) for a municipal property value tax exemption under this bylaw will be limited to one or more of the following:
 - a. a portion of a parcel zoned to permit a commercial use;
 - b. a parcel zoned to permit a residential use if the improvement contains four or more dwelling units; or
 - c. a portion of a parcel zoned to permit Eligible Housing.
5. This bylaw does not apply to a parcel unless:
 - a. the parcel is located in one of the areas shown on Schedule B, and
 - b. the owner of the parcel has entered into an agreement with the District substantially in the form and with the content of the agreement attached as Schedule A.

6. If the conditions set out in Section 3, and the agreement substantially in the form and with the content of the agreement attached as Schedule A have been met, the financial officer must issue a Revitalization Tax Exemption Certificate for the parcel in accordance with the agreement.
7. The Revitalization Tax Exemption Certificate must, in accordance with the conditions established in Section 3 and the agreement substantially in the form and with the content of the agreement attached as Schedule A, specify the following:
 - a. the amount of the tax exemption or formula for determining the exemption;
 - b. the term of the tax exemption;
 - c. the conditions on which the tax exemption is provided;
 - d. that a recapture amount is payable if the certificate is cancelled and how that amount is to be determined.
8. An owner of a parcel in the Revitalization Area may apply to the financial officer in writing, prior to ~~October 31~~ August 31 *(amended by Bylaw No. 413 August 10, 2009)* of the preceding year, for a municipal property value tax exemption under this bylaw, by submitting the following with the application:
 - a. a certificate that all taxes assessed and rates, charges and fees imposed on the parcel have been paid, and where taxes, rates or assessments are payable by instalments, that all instalments owing at the date of the certificate have been paid;
 - b. a completed written application in a form prescribed by Council and available in the office of the financial officer;
 - c. a description of the new improvements or the alteration of the existing improvement fits the description of the new improvement or the alteration of the existing improvement that would be eligible under this bylaw for a municipal property value tax exemption;
 - d. an examination fee in the amount of \$100;
 - e. a copy of the agreement entered into with the City substantially in the form and with the content of the agreement attached as Schedule A, duly executed by and on behalf of the owner of the parcel.

BUILDING PERMIT FEES *(amended by Bylaw No. 451 May 11, 2010)*

9. a. Despite any other Bylaw, a building permit fee in the Revitalization Area will be:

- i. fifty percent (50%) of the fee otherwise imposed by Bylaw in respect to the following;
 1. residential improvements having a density of at least fifty (50) dwelling units per hectare; or
 2. commercial development; or
 3. improvements that are LEED Certified; and
 - ii. not applicable in respect of a permit for new Eligible housing.
- b. In respect to the LEED certification component, the Applicant will either provide the 50% payment of the required fees or a letter of credit for the 50% payment complete with proof of LEED registration and a preliminary LEED scorecard showing that the project is on a path to certification at time building permit fee is due. Upon proof of LEED certification the payment will be refunded or the letter of credit released.

DEVELOPMENT COST CHARGES *(amended by Bylaw No. 451 May 11, 2010)*

10. a. Development cost charges (DCC) imposed under the District of Sooke *Development Cost Charge Imposition Bylaw* as amended and in force from time to time are reduced in the Revitalization Area as follows:
 - i. by thirty percent (30%) in respect of residential improvements having a density of at least fifty (50) dwelling units per hectare;
 - ii. by an additional thirty percent (30%) in respect of improvements that are LEED Certified; and
 - iii. by one hundred percent (100%) in respect new Eligible Housing.
- b. In respect to the LEED certification component, the Applicant will either provide the 30% payment of the required charges or a letter of credit for the 30% payment complete with proof of LEED registration and a preliminary LEED scorecard showing that the project is on a path to certification at time DCC payment is due. Upon proof of LEED certification the payment will be refunded or the letter of credit released.

Capital Improvement Financing Reserve Program

11. This bylaw establishes a capital reserve fund to be known as the *Town Centre Capital Improvement Financing Reserve*.
12. The District may use monies from the *Town Centre Capital Improvement Financing Reserve* to pay for public infrastructure and amenities in the Revitalization Area (or for projects that clearly support the Revitalization Area) in the following categories: land acquisition, street lighting, curb and sidewalks, road construction and improvement, intersection

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improvements, storm drainage, sewer construction and improvements, landscaping, park improvements, parking structures, civic buildings and centers (such as performing arts center), equipment, utilities, green infrastructure, affordable housing, beautification projects and amenities, such as a marine boardwalk.

13. The District will deposit in the *Town Centre Capital Improvement Financing Reserve*, commencing in 2010, an amount equal to the increase in municipal property value tax revenue paid by owners of parcels in the Revitalization Area between:
 - a. 2009 (adjusted annually by the average percentage increase in the municipal property value tax for the property class); and
 - b. the calendar year during which the deposit is made.

Introduced and read a first time the 9th day of June, 2009

Read a second time the 9th day of June, 2009

Public Notice given under Section 227 of the *Community Charter* in accordance with Section 94 of the *Community Charter* as of the 9th day of June, 2009.

Read a third time the 15th day of June, 2009.

Adopted this 22nd day of June, 2009.

CONSOLIDATED FOR REFERENCE

Janet Evans
Mayor

Evan Parliament
Chief Administrative Officer

SCHEDULE A

REVITALIZATION TAX EXEMPTION AGREEMENT

THIS AGREEMENT dated for reference the _____ day of _____, 2009.

BETWEEN

[INSERT name and address of owner of parcel in respect of which the revitalization property value tax exemption will apply]
("Owner")

AND

DISTRICT OF SOOKE, 2205 Otter Point Road, Sooke, BC V9Z 1J2
("District")

GIVEN THAT

- A. The District has under the Bylaw defined in this Agreement established a revitalization tax exemption program for the purpose of encouraging revitalization of an area of the municipality,
- B. The Lands that are the subject of this Agreement are located in an area designated by the District's Council as a revitalization area,
- C. The Owner is the registered Owner of the Lands defined in this Agreement,
- D. This Agreement contains the terms and conditions respecting the provision of a municipal property tax exemption under the bylaw defined in this Agreement,
- E. The Owner and the Municipality wish to enter into this Agreement and register it against the title to the Lands as a covenant under Section 219 of the *Land Title Act*,

THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements contained in this Agreement and the payment by the Owner to the District of consideration in the amount of \$10.00 (Ten) Dollars, the receipt and sufficiency of which are acknowledged by the District, the District and Owner covenant and agree with each other as follows:

1. DEFINITIONS

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1.1 In this Agreement:

Agreement means this Agreement, including the standard charge terms contained in this Agreement, together with the General Instrument defined in this Agreement;

Assessed Value means the most recent assessed value of the Lands as determined by the assessment authority in the area in which the Lands are located; if such value is not available then the assessed value means the highest price in terms of money that the real property will fetch under all conditions requisite to a fair sale with the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus as estimated by a real estate appraiser accredited in the jurisdiction in which the Lands are located;

Bylaw means Bylaw No. 408, *Sooke Town Centre Revitalization Bylaw, 2009*, as amended and in force from time to time;

CPI means the All Items Consumer Price Index for Victoria, British Columbia, published from time to time by Statistics Canada, or its successor in function, where the base amount year, defined in this Agreement, equals 100;

Dispose means to transfer by any method and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release or agree to do any of those things;

General Instrument means the Form C under the Land Title (Transfer Forms) Regulation as amended, and all schedules and addenda to the Form C charging the Lands and citing the terms and conditions of this Agreement as the “standard charge terms” for the purposes of the Form C;

Lands means the lands legally described in Item 2 of the General Instrument and any part into which the Lands are subdivided;

LTO means the Victoria Land Title Office or its successor;

Owner means the transferor described in the General Instrument and any subsequent owner of the Lands or any parts into which the Lands are subdivided, and includes any person who is a registered owner in fee simple of the Lands from time to time;

Prime Rate means the annual rate of interest, expressed as a percentage, used as a reference rate by the Royal Bank of Canada at its main branch in Vancouver, British Columbia, for Canadian dollar loans

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and designated by the Royal Bank of Canada from time to time as its prime rate;

2. TERM

- 2.1 The Owner covenants and agrees with the District that the term of this Agreement is three (3) years commencing on January 1 of the first calendar year after the calendar year referred to in the reference date of this Agreement was made.

3. APPLICABLE IMPROVEMENTS

- 3.1 The tax exemption provided for under the bylaw applies in respect of
- (a) a construction of a new improvement that is LEED certified;
 - or
 - (b) the alteration of an existing improvement, where the alteration results in the improvement being LEED certified;
- on the Lands. *(amended by Bylaw No. 451 May 11, 2010)*

4. REVITALIZATION TAX EXEMPTION CERTIFICATE

- 4.1 (a) Once the Owner has completed the construction of the new improvement or alteration of an existing improvement referred to in Section 3, and the District has issued an occupancy permit under the District's Building Regulation Bylaw, in force from time to time, in respect of the new improvement or alteration of an existing improvement, the District's Council must issue a revitalization tax exemption certificate to the Owner for the Lands if the Owner and the Lands are otherwise in compliance with this Agreement.
- (b) An interim certificate may be issued for the year of construction, with a further three year certificate issued for the next assessment year.
- (c) A revitalization tax exemption certificate must, in accordance with the Bylaw and this Agreement, specify the following:
- (i) the amount of the tax exemption or the formula for determining the exemption;
 - (ii) the term of the tax exemption;
 - (iii) the conditions on which the tax exemption is provided;
 - (iv) that a recapture amount is payable if the certificate is cancelled and how that amount is to be determined.

5. TAX EXEMPTION

- 5.1 So long as a revitalization tax exemption certificate in respect of the Lands has not been cancelled, the Lands are exempt, to the extent, for the period and subject to the conditions provided in the certificate, from municipal property taxation.
- 5.2 The revitalization tax exemption certificate may be cancelled by the Council of the District
- (a) on the request of the Owner, or
 - (b) if any of the conditions in the certificate are not met.

6. OWNER OBLIGATIONS

- 6.1 The Owner must pay to the District the cost of all tie-ins of works and services associated with the new improvements or alteration to improvements, to existing storm and sanitary sewers, water mains, water meters, driveways, and other municipal services.
- 6.2 The Owner must comply with
- (a) all enactments, laws, statutes, regulations and Orders of any authority having jurisdiction, including bylaws of the District, and
 - (b) all federal, provincial, municipal and environmental licenses, permits and approvals required under applicable enactments.

7. OBLIGATIONS OF DISTRICT

- 7.1 The District must issue a revitalization tax exemption certificate to the Owner in respect of the Lands once the Owner has applied for and obtained an occupancy permit from the District under the District's Building Regulation Bylaw, in force from time to time, in relation to the new improvements or alterations to an existing improvement as described under section 3.1, so long as the Owner and the Lands are otherwise in compliance with the Bylaw and this Agreement.

8. DISTRICT'S RIGHTS AND POWERS

- 8.1 Nothing contained or implied in this Agreement prejudices or affects the District's rights and powers in the exercise of its functions or its rights and powers under any public and private statutes, bylaws, orders, or regulations to the extent the same are applicable to the Lands, all of which

may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner.

9. GENERAL PROVISIONS

- 9.1 It is mutually understood, agreed, and declared by and between the parties that the District has made no representations, covenants, warranties, guarantees, promises, or agreements (oral or otherwise), express or implied, with the Owner other than those expressly contained in this Agreement.
- 9.2 The Owner covenants and agrees to use best efforts to do or cause to be done, at the expense of the Owner, all acts reasonably necessary to grant priority to this Agreement as a covenant over all charges and encumbrances which may have been registered against the title to the Lands in the Victoria Land Title Office, save and except those specifically approved in writing by the District or in favour of the District.
- 9.3 The covenants set forth in this Agreement shall charge the Lands pursuant to Section 219 of the *Land Title Act* and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or parts thereof, and every part to which the Lands may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise.
- 9.4 The covenants set forth in this Agreement shall not terminate if and when a purchaser becomes an owner in fee simple of the Lands or any portion thereof, but shall charge the whole of the interest of such purchaser and shall continue to run with the Lands and bind the Lands and all future owners for the time being of the Lands or any portion thereof, except the Owner will be entitled to a partial discharge of this Agreement with respect to any subdivided parcel of the Lands on acceptance of the works and on compliance by the Owner with all requirements under this Agreement with respect to the subdivided portion of the Lands.
- 9.5 It is further expressly agreed that the benefit of all covenants made by the Owner herein shall accrue solely to the District and this Agreement may only be modified by agreement of the District with the Owner, or discharged by the District pursuant to the provisions of Section 219 of the *Land Title Act* and this Agreement. All of the costs of the preparation, execution, and registration of any amendments or discharges shall be borne by the Owner.
- 9.6 This Agreement shall enure to the benefit of and is binding on the parties and their respective heirs, executors, administrators, successors and assigns.

- 9.7 The Owner shall, on the request of the District, execute and deliver or cause to be executed and delivered, all such further transfers, agreements, documents, instruments, easements, statutory rights of way, deeds and assurances, and do and perform or cause to be done and performed, all such acts and things as may be, in the opinion of the District necessary to give full effect to the intent of this Agreement.
- 9.8 Time is of the essence of this Agreement.
- 9.9 This Agreement constitutes the entire agreement between the Owner and the District with regard to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written of the District with the Owner.
- 9.10 Any notice or other communication required or contemplated to be given or made by any provision of this Agreement shall be given or made in writing and either delivered personally (and if so shall be deemed to be received when delivered) or mailed by prepaid registered mail in any Canada Post Office (and if so, shall be deemed to be delivered on the sixth business day following such mailing except that, in the event of interruption of mail service notice shall be deemed to be delivered only when actually received by the party to whom it is addressed), so long as the notice is addressed as follows:

to the Owner at:

◆[insert name]
[◆insert address]

Attention: [insert contact]◆

and:

to the District at:

District of Sooke
2205 Otter Point Road
Sooke, B.C. V9Z 1J2

Attention: (Financial Officer)

or to such other address to which a party hereto from time to time notifies the other parties in writing.

- 9.11 (a) No amendment or waiver of any portion of this Agreement shall be valid unless in writing and executed by the parties to this Agreement.

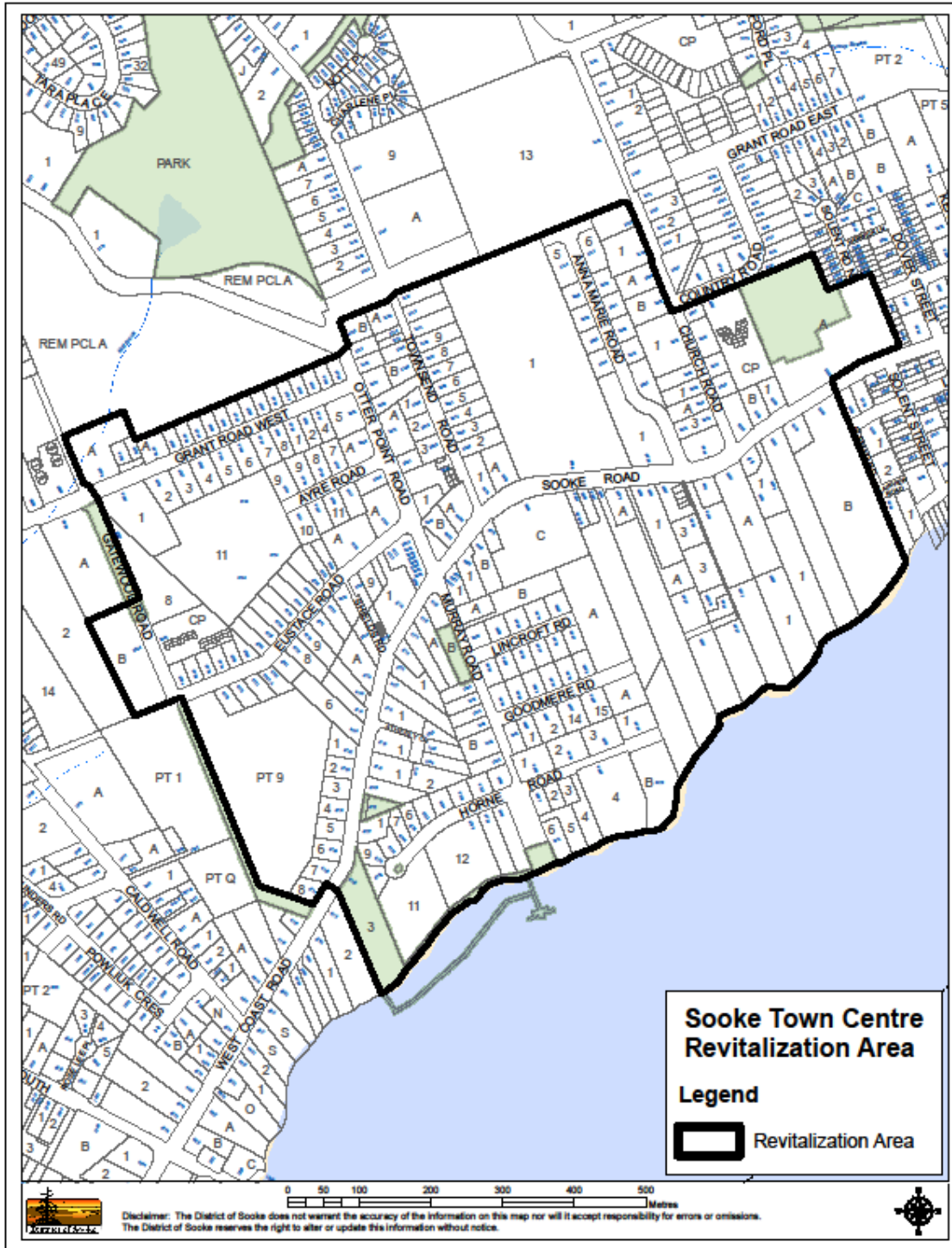
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- (b) Waiver of any default by a party shall not be deemed to be a waiver of any subsequent default by that party.
- 9.12 This Agreement is not intended to create a partnership, joint venture, or agency between the Owner and the District.
- 9.13 This Agreement shall be construed according to the laws of the Province of British Columbia.
- 9.14 A reference in this Agreement to the District or the Owner includes their permitted assigns, heirs, successors, officers, employees, and agents.
- 9.15 This Agreement is effective from and after the reference date in this Agreement, but only if this Agreement has been executed and delivered by the Developer and executed by the District.
- 9.16 The parties intend, by their execution and delivery of this Agreement, to create a covenant granted to the District under Section 219 of the *Land Title Act*, a contract, and a deed executed and delivered to the District under seal.
- 9.17 Unless otherwise expressly provided in this Agreement, whenever the District is permitted to make or give any decision, direction, determination, or consent, the District may act in its sole discretion, but will act reasonably.
- 9.18 Unless otherwise expressly provided in this Agreement, the expense of performing the obligations and covenants of the Owner contained in this Agreement, and of all matters incidental to them, is solely that of the Owner.
- 9.19 The Owner represents and warrants to the District that
 - (a) all necessary corporate actions and proceedings have been taken by the Owner to authorize its entry into and performance of this Agreement;
 - (b) upon execution and delivery on behalf of the Owner, this Agreement constitutes a valid and binding contractual obligation of the Owner;
 - (c) neither the execution and delivery, nor the performance, of this Agreement shall breach any other Agreement or obligation, or cause the Owner to be in default of any other Agreement or obligation, respecting the Lands; and

- (d) the Owner has the corporate capacity and authority to enter into and perform this Agreement.

SCHEDULE B

REVITALIZATION AREA (amended by Bylaw No. 451 May 11, 2010)



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