In Camera Council Meeting
Agenda
August 22, 2022 at 5:30 p.m.
Council Chambers
Metchosin Municipal Hall

Supplemental Information
Metchosin Greenspace Disposition Package

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RELEASE OF IN CAMERA RESOLUTION dated August 22, 2022:
Moved and Seconded by Councillors Kahakauwila and Epp that Council direct staff to release the Supplemental Information - Metchosin Greenspace Disposition Package dated August 22, 2022 with redactions in accordance with the *Freedom of Information and Protection of Privacy Act.*
And that Council release this resolution to the public.

Carried
Councillor Little opposed

Information exempt from disclosure in accordance with the Freedom of Information and Protection of Privacy Act under the following sections:

s. 12 Cabinet and local public body confidences
s. 14 Legal advice
s. 17 Disclosure harmful to the financial or economic interests of a public body

District of Metchosin

Minutes
Council Meeting
July 18, 2022 at 7:00 p.m.
Council Chamber
Metchosin Municipal Hall

Please NOTE: The meeting has been recorded.

Present: Mayor Ranns in the Chair, Councillors MacKinnon, Epp, and Little
Also present was L. Urlacher, CAO and B. Sprinkling, Recording Secretary

Regrets: Councillor Kahakauwila

Closed Portion, Exclusion of the Public

Moved and Seconded by Councillors MacKinnon and Epp that the public be excluded under section 90 of the *Community Charter* in order to consider:
(1)(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment.
(2) (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

Carried

The closed portion of the meeting was called to order at 6:33 p.m.
The open portion of the meeting was called to order at 9:42 p.m.

The meeting was called to order at 9:42 p.m.

1. Agenda, Additions and Approval

Moved and Seconded by Councillors MacKinnon and Epp that the agenda be approved with the addition of the Authorization for Non-Farm Use Application to Proceed, 4450 Happy Valley Road and granting of $750 to the Cricket Club under Business Arising.

Carried

2. Public Participation

Wendy Mitchell, Resident, inquired as to how would Metchosin benefit from the sale of the buffer lands to the Capital Regional District and stated that the community is proud of the land swap for the buffer lands as an act of reconciliation under the 2017 agreement.

Bonnie Bouveur, Resident, spoke as an adjacent property owner to the buffer lands and stated that there was no need for further public engagement and suggested that we need to uphold the integrity of the 2017 Agreement.

Avril Yoachim, Resident, spoke as to the January 31, 2022 letter to the CRD Real Estate Division released under a Freedom of Information request and inquired as to whether the proposed sale is halted.
Council stated that the public has expressed a wide range of opinions about what should happen

to the buffer lands and if any changes were to be proposed for the lands would require public consultation.

Moved and Seconded by Councillors MacKinnon and Epp that Council extend the meeting past 10:00pm.

Carried

Chris Moehr, Resident, requested Council present a motion at the Union of BC Municipalities meeting, or support it if it comes to the meeting, to return the length of time an elected official serves to three years.

3. Adoption of Minutes

Moved and Seconded by Councillors MacKinnon and Epp that Council adopt the minutes of the Council Meeting, June 17, 2022.

Carried
Councillor Little abstained from the vote on the motion as she was not at the meeting

ACTION ITEM: Council will have a discussion at an upcoming In Camera meeting regarding the content of the Mayor's Report of June 27, 2022 and staff will provide copies of all the In Camera minutes of the five meetings.



4. Business Arising

a) Staff Report, Authorization for Non-Farm Use Application to Proceed, 4450 Happy Valley Road

Moved and Seconded by Councillors Epp and Little that Council authorize the application to proceed for 4450 Happy Valley Road to the Agricultural Land Commission with a recommendation for approval.

Carried

Moved and Seconded by Councillors Epp and Little that Council grant $750 to the Metchosin Cricket Club.

Carried

5. Reports for Action

a) Request for Development Variance Permit, 852 Pears Road

Moved and Seconded by Councillors MacKinnon and Epp that Council issue Development Variance Permit 22-03, 852 Pears Road.

Carried

b) Annual General Meeting – 2022 Annual Report

Public Input: No input

Moved and Seconded by Councillors MacKinnon and Epp that Council approve the 2022 Annual Report.

Carried

6. Reports for Information

a) Metchosin Public Communication Monthly Report Statistics, June 2022

Moved and Seconded by Councillors MacKinnon and Little that Council receive the Metchosin Public Communication Monthly Report Statistics, June 2022.

Carried

b) West Shore RCMP Metchosin Quarterly Report, January 1 to March 31, 2022

Moved and Seconded by Councillors MacKinnon and Little that Council receive the West Shore RCMP Metchosin Quarterly Report, January 1 to March 31, 2022.

Carried

7. Adjournment

Council adjourned the meeting at 10:20 p.m.

Certified Correct

Mayor

Corporate Officer

District of Metchosin

Minutes
Council Meeting
June 27, 2022 at 7:00 p.m.
Council Chamber
Metchosin Municipal Hall

Please NOTE: The meeting has been recorded.

Present: Mayor Ranns in the Chair, Councillors Kahakauwila, MacKinnon and Epp. Councillor Little sent her regrets. Also present was L. Urlacher, CAO. Recording Secretary by video, Bonnie Sprinkling

Closed Portion, Exclusion of the Public

Moved and Seconded by Councillors Kahakauwila and MacKinnon that the public be excluded under section 90 of the *Community Charter* in order to consider:
(1)(a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointment by the municipality;
(c) labour relations or other employee relations;
(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment.
(g) litigation or potential litigation affecting the municipality.
(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

Carried

The closed portion of the meeting was called to order at 5:32 p.m.
The open portion of the meeting was called to order at 6:58 p.m.

1. Agenda, Additions and Approval

Moved and Seconded by Councillors Kahakauwila and MacKinnon that the agenda be approved with the addition of the Supplemental Agenda Item.

Carried

2. Presentations

a) Dr. Robert O'Connor – Family Physician Crisis Issue in B.C.

Dr. O'Connor gave a PowerPoint presentation regarding the family physician crisis in B.C. including:

- Main reasons for the shortage of family physicians
  - family medicine has not paced inflation
  - debt levels of new graduates affect ability to purchase local housing
  - Other options for work available
  - Effect of retirement
  - Many physicians have young families
  - COVID epidemic

- Overview of Federal and Provincial jurisdictions for physicians
- What can be done on the municipal level to help
    - Have "Welcome Wagon" program to provide physicians with information about locating their practice in community
    - Medical Student Scholarships to encourage new physicians to become residents
    - Letter from the District sent to the Association of BC Municipalities as to crisis

Dr. O'Connor commented on the letter from the City of Langford and stated that he agreed to the content. Dr. O'Connor stated that input from Steve Gray was valuable. Dr. O'Connor further commented that there is only one seat available in Canadian medical schools for six applicants.

Dr. O'Connor responded to questions from the public as to the value of online medical services, commuting to physician offices, availability of office space, ability for the municipality to provide housing for physicians to have offices in their homes and the options for shared offices.

3. Public Participation

Nicole Shukin, Resident, commented on the minutes of the Planning Committee meeting on June 13, 2022 as to the Buffer Lands and a statement by Councillor Little. Ms. Shukin also commented on the 2017 referendum process for the Buffer Lands and the District of Metchosin information sheet provided at the time as to the Buffer Lands.

Chris Moehr, Resident, stated that she did not support amending District of Metchosin bylaw to allow for RVs and mobile tiny homes, potentially in place of a secondary suite, as a solution to homelessness or affordability.

Selby Saluke, Resident, spoke as to a Raincoast Conservation Foundation workshop he recently attended and shared several take-aways from the workshop; such as, municipalities must have environmental considerations as top-of-mind and the environment should be prioritized over development proposals. Mr. Saluke stated that human activity always impacts the environment and we can encourage native flora and fauna simply by being mindful of our activity and letting nature do its own thing.

Jay Shukin, Resident, commented on the minutes of June 13, 2022 Planning Committee as to the Buffer Lands.

Bev Bacon, Resident, stated her support of the letter by View Royal Mayor David Screech on the Island Rail Corridor.

4. Adoption of Minutes

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council adopt the minutes of the Council Meeting, May 9, 2022.

Carried

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council adopt the minutes of the Council Meeting, June 6, 2022.

Carried

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council adopt the minutes of the Special Council Meeting, June 13, 2022.

Carried

5. Receipt of Minutes

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council receive the minutes of the Planning Committee meeting, June 13, 2022.

Carried

6. Mayor's Report

Mayor Ranns reviewed the process for recording the public participation portions of public meetings.

Mayor Ranns stated that Council has reviewed In Camera minutes and Council has instructed the Mayor to make the following statements:

1. Between June 2021 through to the end of October 2021, there were five meetings that took place in which all Council were informed and discussed the disposition of the greenspace by way of reviewing the agenda materials and approving the minutes. There were five meetings, and the minutes were approved at subsequent meetings. Council through that time, through those meetings, unanimously provided directions to staff to negotiate specific terms and to undertake the process of disposition, unanimously. The disposition of the greenspace was led by Council, not by the Planning Committee, and that Council, unanimously, was the discretionary body. The agreement to move forward to not sell the greenspace was a decision made unanimously by Council. So, in other words, all of Council was fully informed throughout the process and instructions were given to the CAO to execute the resolutions that were made, all of it, unanimously.

2. In February of this year, the Steering Committee for the Sc'ianew Indigenous Protected Area (IPA) at Mary Hill publicly announced a Standstill Agreement between four parties: Sc'ianew First Nation, and three supporting parties: Habitat Acquisition Trust, the District of Metchosin and Pearson College, United World College. The agreement describes the on-going collaborative work of the parties in evaluating the potential IPA project on future Sc'ianew First Nation treaty settlement land at Mary Hill. The Standstill Agreement affirms that the Project Steering Committee, made up of the Standstill Agreement signatories, is the forum for the discussion, deliberation and communication of all matters related to the Mary Hill IPA project. At this early stage of the Standstill Agreement, each party to the agreement is independently working to identify various ways in which they may contribute to a potential IPA at Mary Hill. Over the next year, ideas generated by each party will be reviewed and evaluated by the whole Steering Committee to determine which options may provide the best overall support for a future IPA outcome at Mary Hill. Options approved by the Steering Committee will then become part of the relevant community review process.

Mayor Ranns spoke as to comments he made about the owner of the Swanwick farm property during the June 13, 2022 Parks Committee meeting such that the District was waiting for a response from the property owner's solicitor. Due to the fact that the District's CAO was sick, the

Mayor was not informed that the response had come in. Mayor Ranns apologized to the property owner and their solicitor for suggesting that a response had not come in.

The Mayor then made a Rise and Report from an In Camera Meeting about the appointments of Sue-Lin Tarnowski as the new Chief Financial Officer and Chris Watkins as the new Building Inspector. Mayor Ranns welcomed them on to staff.

Councillor Kahakauwila also reported that Katherine Lesyshen has started as the new Planner. There will be an article about her in the forthcoming Muse.

Councillor Epp reported:

a. the Mighty Metchosin Garage Sale which was a huge success and brought in a record amount of money, well above $40,000. Thanks to all of the volunteers and those who donated items.
b. On Canada Day, from 11:00am to 2:00pm, the Metchosin Arts and Cultural Centre Association (MACCA) will host the Family Festivus Event.
c. The 150th Anniversary celebration of the old Metchosin School House Museum will be held on September 24, 2022.
d. Last weekend, an event was held to celebrate the Metchosin Community House and to honour the three founders: Jo Mitchell, Jane Hammond and Betty Hildreth.

Mayor Ranns reported that the U16 Juan de Fuca Lacrosse team won the League Championship.

7. Reports for Action

a) Request for Development Variance Permit, 852 Pears Road

It was noted that the requested variance permit is to enable the construction of a detached suite and the applicant has agreed to revise the site plan to minimize the variances requested.

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council request that staff send notices to landowners within 60m of the property informing them of the application and the July 18, 2022 Council meeting when issuance of the permit will be considered.

Carried

b) 2022 General Local Election, Deputy Chief election Officer Appointment

Moved and Seconded by Councillors Kahakauwila and Epp that Council rescind the appointment of Deputy Chief Election Officer to Tammie Van Swieten;
And that Council appoint Amber Ward as Deputy Chief Election Officer for the 2022 General Local Election.

Carried

c) 2022 DRAFT Annual Report

Moved and Seconded by Councillors MacKinnon and Kahakauwila that Council receive the 2022 Annual Report and direct staff to prepare the report for public review before June 30th, 2022.

Carried

8. Reports for Information

a) Metchosin Building Inspection Department Monthly Report, May 2022

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council receive the Metchosin Building Inspection Department Monthly Report, May 2022.

Carried

b) Metchosin Public Communication Monthly Report Statistics, May 2022

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council receive the Metchosin Public Communication Monthly Report Statistics, May 2022.

Carried

9. Correspondence

a) Tim Morrison, CREST Chair

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council receive the correspondence from Tim Morrison, CRES Chair.

Carried

b) Mayor Stewart Young, City of Langford – Family Physician Crisis in B.C.

Council discussed the correspondence from Mayor Stewart Young, City of Langford and the input from Dr. O'Connor and Steve Gray regarding the family physician crisis in B.C.

Moved and Seconded by Councillors MacKinnon and Kahakauwila that Council express its full support for the District of Central Saanich and City of Langford resolutions to the Union of BC Municipalities and that the District of Metchosin Council present to the Union of BC Municipalities the following motion:

"WHEREAS British Columbia's system of family physicians is in crisis and it is estimated that close to one million British Columbians – 20 percent of the population – is without a family doctor and, therefore, without longitudinal care;

AND WHEREAS many senior citizens, people with chronic health concerns, and those requiring prescription refills and regular health check-ups are without a reliable means of care as doctor's leaver their practice through retirement and for other health care opportunities, walk-in clinics close, and hospitals emergency rooms are overwhelmed.

THEREFORE IT BE RESOLVED that UBCM call on the Province of BC to work with the family physicians of BC to make a long-term, sustainable plan that supports the different types of practice."

Carried

c) Mayor David Screech, Town of View Royal – Support for Island Rail Corridor

Council discussed the correspondence from Mayor David Screech, Town of View Royal regarding support for the Island Rail Corridor.

Moved and Seconded by Councillors MacKinnon and Kahakauwila that Council send an identical

letter supporting the Town of View Royal Island Rail Corridor resolution, with a copy to the Town of View Royal.

Carried

10. Adjournment

Moved and Seconded by Councillors Kahakauwila and MacKinnon that Council adjourn the meeting at 8:42 p.m.

Carried

Mayor

Certified Correct

Corporate Officer

District of Metchosin

Minutes
In Camera Council Meeting
June 14, 2021at 5:00 p.m.
Metchosin Municipal Hall
Council Chambers/Electronic Meeting/Conference Call
In accordance with Ministerial Order No. M192

Present: Mayor Ranns in the Chair, Councillors Kahakauwila and Epp and Little. Also present was L. Urlacher, CAO and T. Van Swieten, Deputy Corporate Officer

Via Phone: Councillors MacKinnon and Little

The meeting was called to order at 5:07 p.m.

FIPPA s. 12(3)(b)



Disposition of Greenspace pkg
Page 11

FIPPA s. 12(3)(b)

[redacted]

f) CRD Parks – Purchase Proposals

Staff gave a verbal update on the CRD Parks Purchase Proposals and Head of Terms for the purchase and sale of [redacted] Section 95 and 28 and the boundary adjustment greenspace, as well as [redacted] and Mary Hill.

FIPPA s. 17(1)(e)

4. Adjournment

Moved and Seconded by Councillors Kahakauwila and Epp that Council adjourn the In Camera portion of the Council meeting at 6:34 p.m.

Carried

Certified Correct

Mayor

Corporate Officer

District of Metchosin

Closed Portion Agenda

Council Meeting
July 12, 2021 at 5:00 p.m.
Council Chambers/Telephone Conference

FIPPA s. 12(3)(b)

[redacted]

c) Mary Hill 23

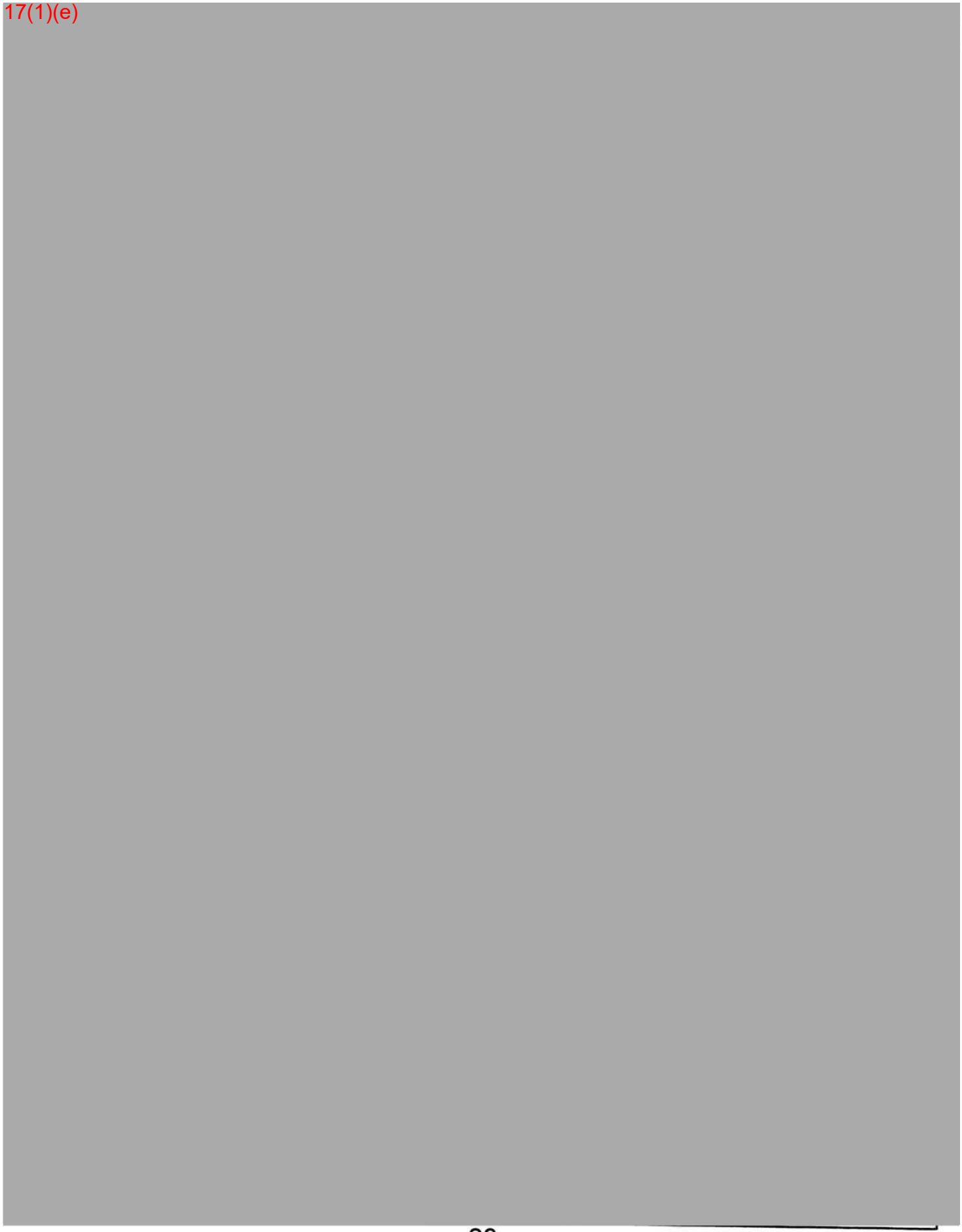
- [redacted] FIPPA 17(1)(e)
- Draft Head of Terms – Lot A
- Draft Head of Terms – Section 95 and Section 28
- Legal Opinion on Disposition (to be received)

FIPPA s. 12(3)(b)

[redacted]

9. Adjournment

17(1)(e)



CRD

Making a difference...together

HEADS OF TERMS FOR PURCHASE AND SALE

Vendor:	**District of Metchosin (DOM)**
Purchaser:	Capital Regional District
Land:	**1 lot – Centre Mountain Terrace , approximately 113.5 acres** As highlighted in light blue on the attached sketch plan. • PID 030-095-875 Lot A, Sections 93, 94, 96 and 108, Metchosin District, Plan EPP69605
Project:	Vacant Land – plan attached
Purchase Price:	$274,400
Deposit:	$10,000 within 5 business days of conditions removed
CRD's Conditions:	On or before October 1st, 2021 the CRD will need to: • Be satisfied with results of due diligence relating to land acquisition • Review environmental information • Review the land survey • Attain CRD Board Approval
DOM's Conditions:	On or before October 1st, 2021 Metchosin will need to: • Attain Council Approval • Complete their disposition process • Be capable of disposing of the lands
CRD's Covenants:	CRD manage the land as Regional Park
DOM's Covenants:	Metchosin will use the funds from the sale towards acquiring or protecting from development, regionally significant environmentally sensitive lands that will be managed as parkland
Closing Date:	~November 24, 2021 –TBD-to be consistent with CRD's acquisition of neighbouring lands.
Representations and Warranties:	The CRD will acquire the Land on an "as is where is" basis and is exclusively responsible to conduct its own due diligence, including all matters relating to the zoning and approvals applicable to the Land, and the environmental condition of the Land.

Schedule A – Map

Dimensions to be confirmed



CRD

Making a difference...together

HEADS OF TERMS FOR PURCHASE AND SALE

Vendor:	**District of Metchosin (DOM)**
Purchaser:	Capital Regional District
Land:	**2 lots – Libra Place (~48.4 acres), and End of Homestead Road (~100 acres)** As highlighted in light blue on the attached sketch plan. • Libra Place - PID 001-713-582, Section 28, Metchosin District • End of Homestead Road – PID 001-974-385, Section 95 Metchosin District
Project:	Vacant Land – plan attached
Purchase Price:	Libra Place $130,500 End of Homestead Road $210,000 Total of $340,500
Deposit:	$10,000 within 5 business days of conditions removed
Mutual Conditions	**Treaty will need to be completed and Metchosin will need to have fee simple title to the lands, or alternatively an agreement in place to assign the lands directly from the Province to the CRD??**
CRD's Conditions:	On or before October 1st, 2021 the CRD will need to: (or do we push this date until 90 days after the treaty is completed??) • Be satisfied with results of due diligence relating to land acquisition • Review environmental information • Review the land survey • Attain CRD Board Approval
DOM's Conditions:	On or before October 1st, 2021 Metchosin will need to: (or do we push this date until 90 days after the treaty is completed??) • Attain Council Approval • Complete their disposition process if required? • Be capable of disposing of the lands
CRD's Covenants:	CRD manage the land as Regional Park
DOM's Covenants:	Metchosin will use the funds from the sale towards acquiring or protecting from development, regionally significant environmentally sensitive lands that will be managed as parkland

Closing Date:	90 days after Beecher Bay FN's Treaty is finalized
Representations and Warranties:	The CRD will acquire the Land on an "as is where is" basis and is exclusively responsible to conduct its own due diligence, including all matters relating to the zoning and approvals applicable to the Land, and the environmental condition of the Land.

DRAFT

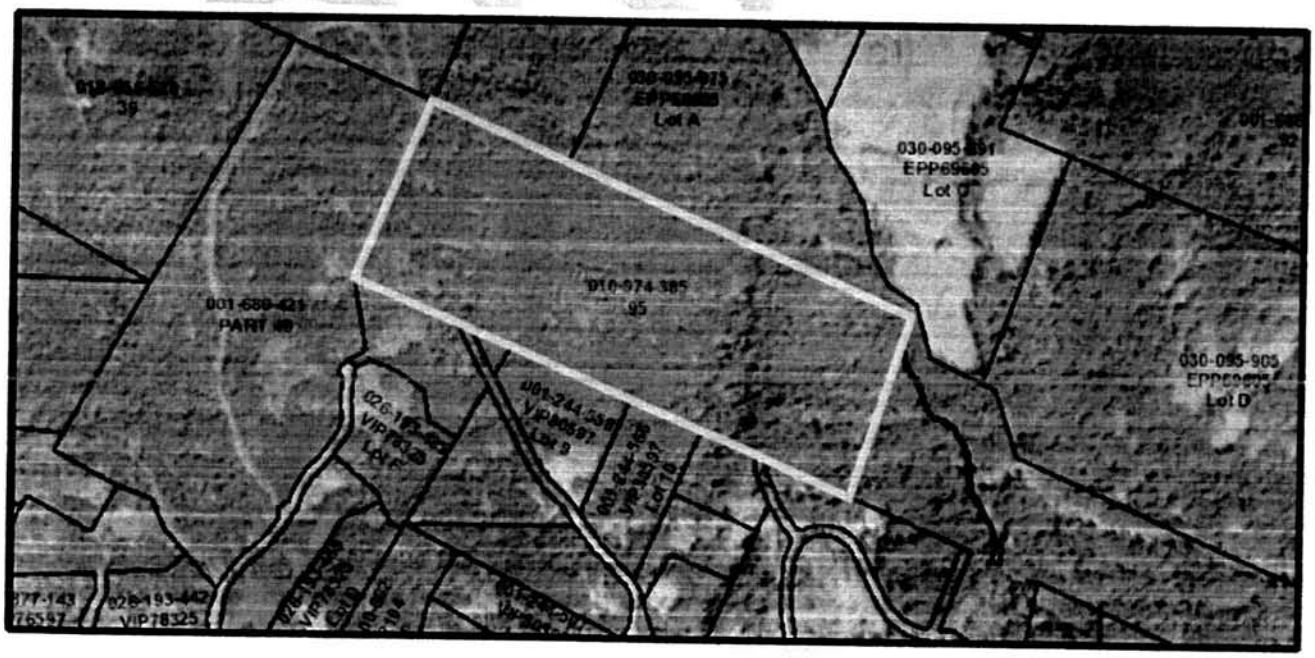
Schedule A – Map

Dimensions to be confirmed

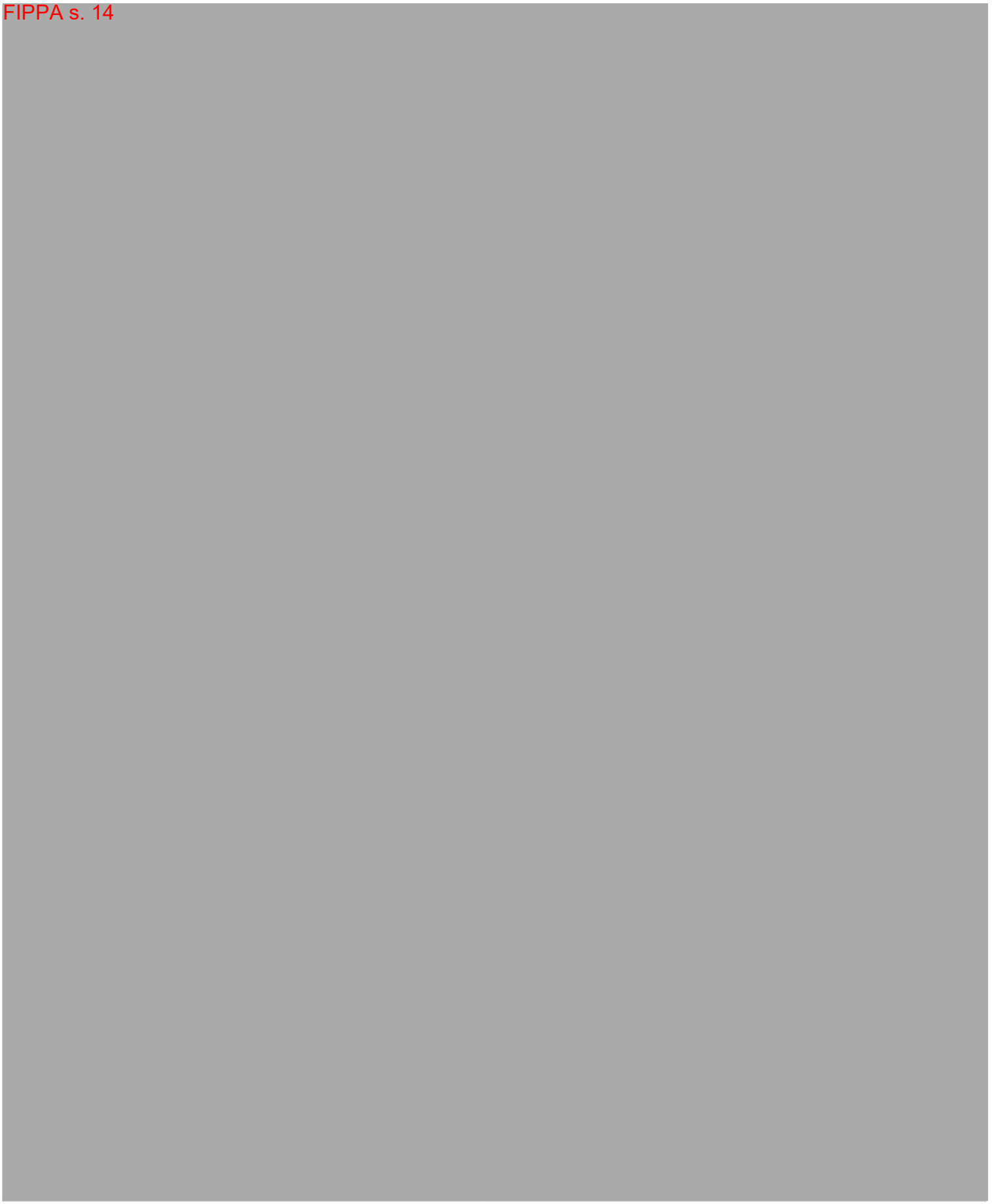
Libra Place lands:



End of Homestead Road



FIPPA s. 14



District of Metchosin

Minutes
In Camera Council Meeting
July 12, 2021at 5:00 p.m.
Metchosin Municipal Hall
Council Chambers/Electronic Meeting/Conference Call
In accordance with Ministerial Order No. M192

Present: Mayor Ranns in the Chair, Councillors Kahakauwila, Epp and Little. Also present was L. Urlacher, CAO and T. Van Swieten, Deputy Corporate Officer

Via Phone: Councillor MacKinnon

The meeting was called to order at 5:04 p.m.

FIPPA s. 12(3)(b)



FIPPA s. 12(3)(b)

[redacted]

c) Mary Hill

Staff gave a brief overview of the attached documents regarding Mary Hill and the following was discussed:

- Work still in progress on amendments
- Questions to the lawyer
- Process of what will take place, how we will use the funds and keeping the funds in trust until needed to progress in the process
- CRD valued District's property significantly less than expected
- Protected parkland is not worth as much money
- CRD to negotiate purchase of [redacted] Sec 95 and 28
- $4 Million and needs to be package deal (if one element fails, the whole process fails)
- Managing protected green space – costs involved
- [redacted]
- Potentially losing Mary Hill/Preserving Mary Hill
- [redacted]
- Legal Opinion on disposition

FIPPA s. 17(1)(e)

FIPPA s. 12(3)(b)

[redacted]

FIPPA s. 12(3)(b)

[redacted]

Moved and Seconded by Councillors Kahakauwila and Little that Council adjourn the In Camera portion of the Council meeting at 6:40 p.m.

Carried

Certified Correct

Mayor

Corporate Officer

District of Metchosin

Special Closed Portion Agenda

Special Council Meeting
September 17, 2021 at 11:00 a.m.
Council Chambers

FIPPA s. 12(3)(b)

[redacted]

4. Business Arising

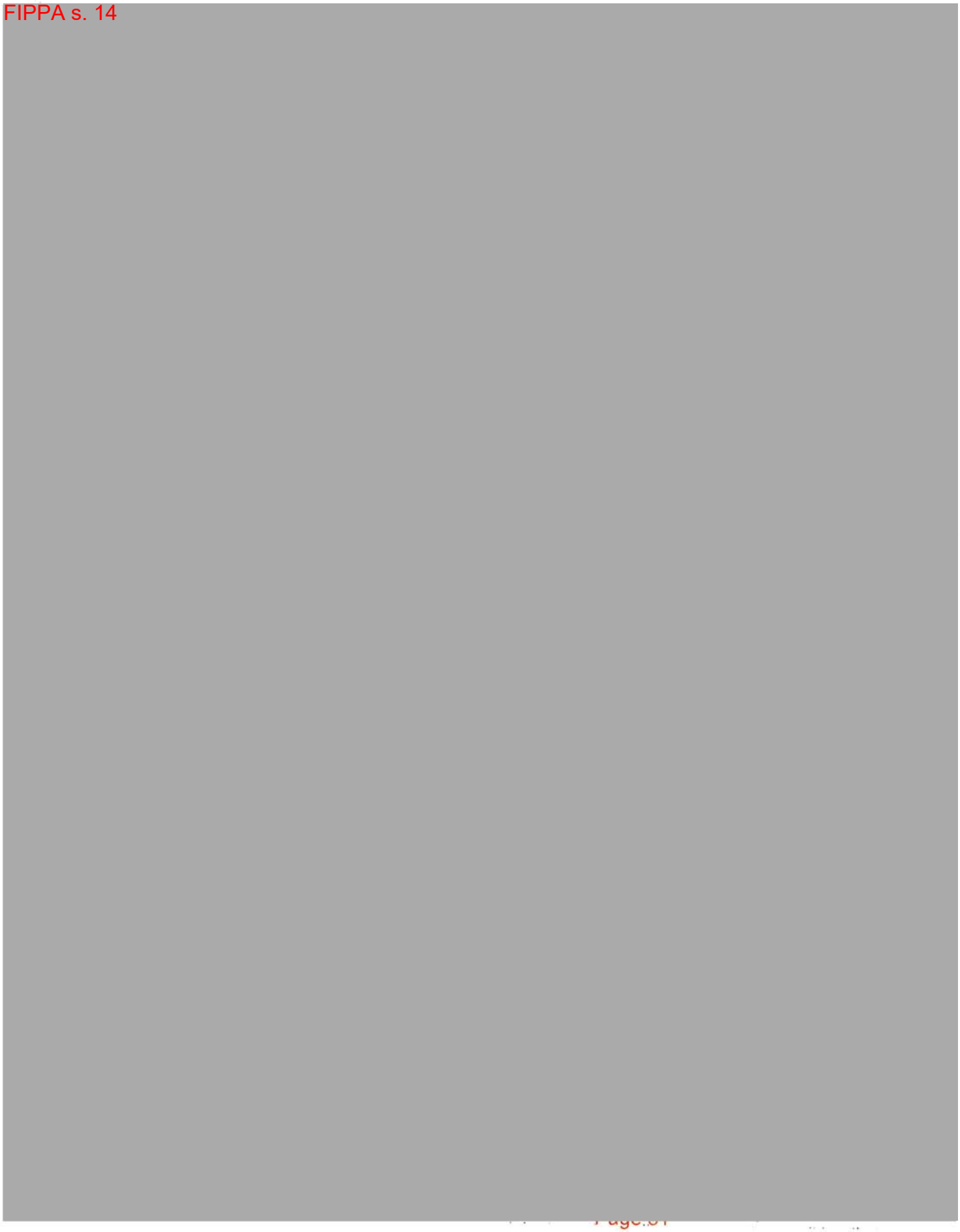
a) Disposition of Greenspace

- Legal advice (further information to be provided during In-Camera meeting)... 5
- Purchase Agreement 19
- Notice of Disposition of Property..... 33

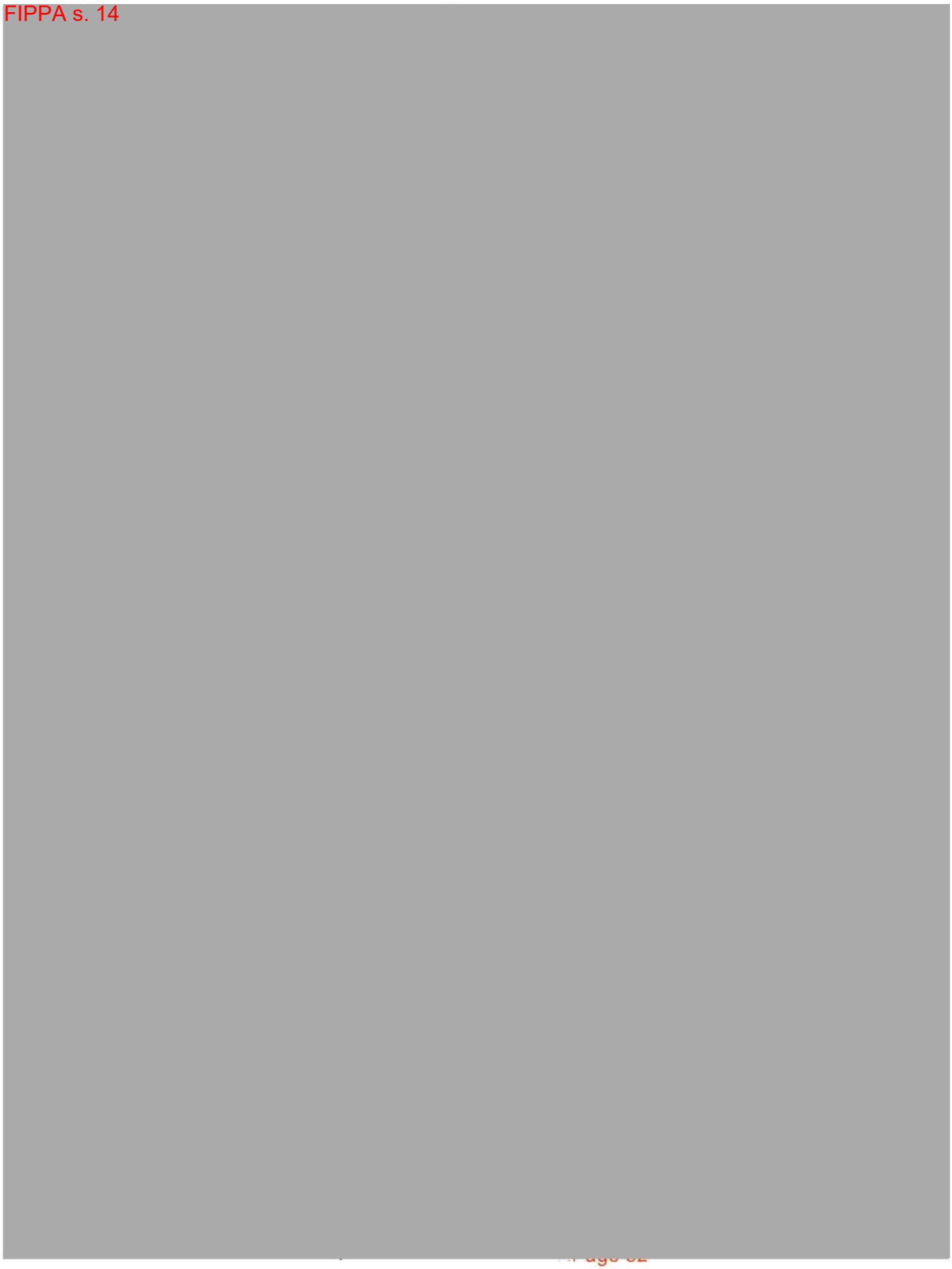
FIPPA s. 12(3)(b)

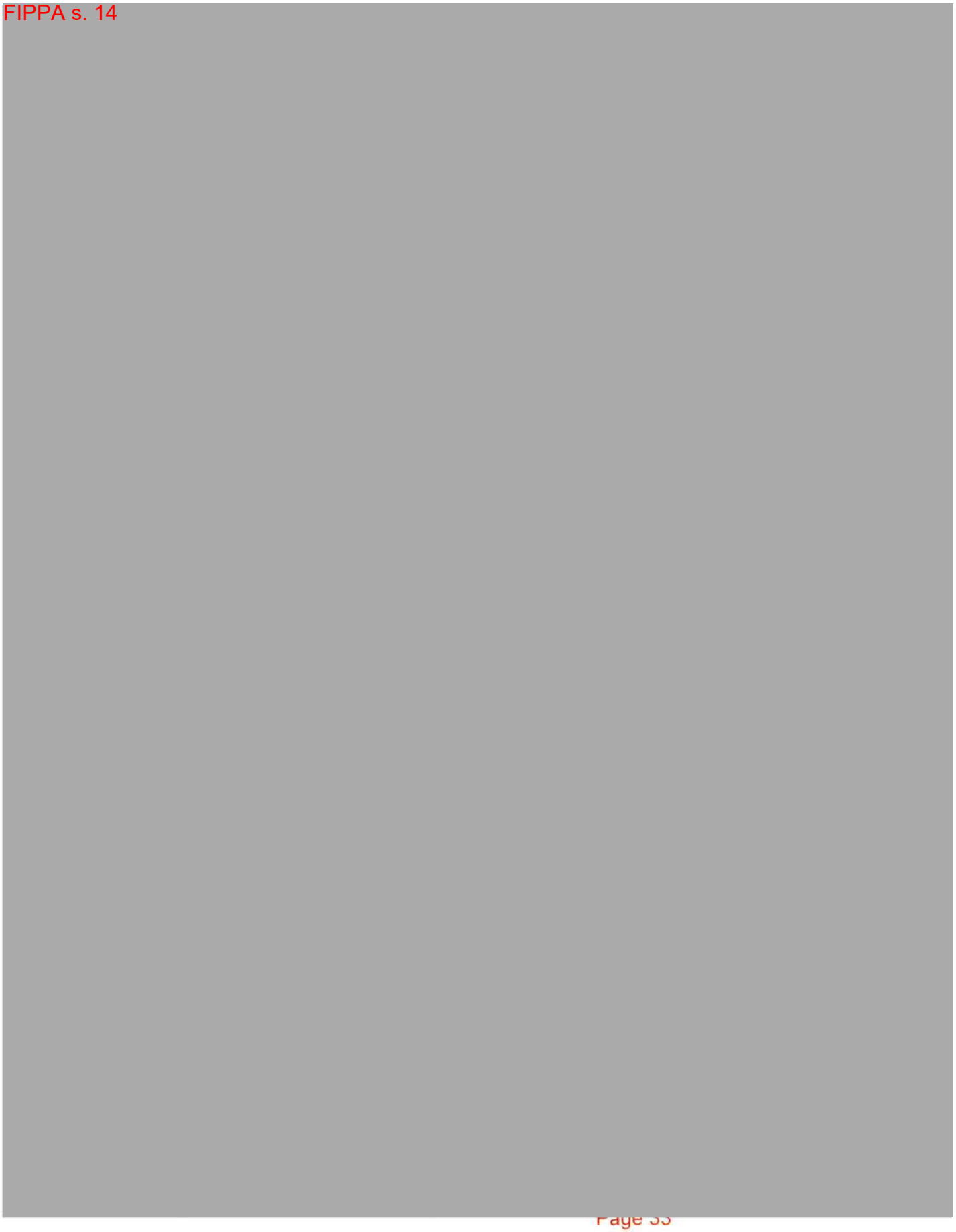
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FIPPA s. 14



FIPPA s. 14

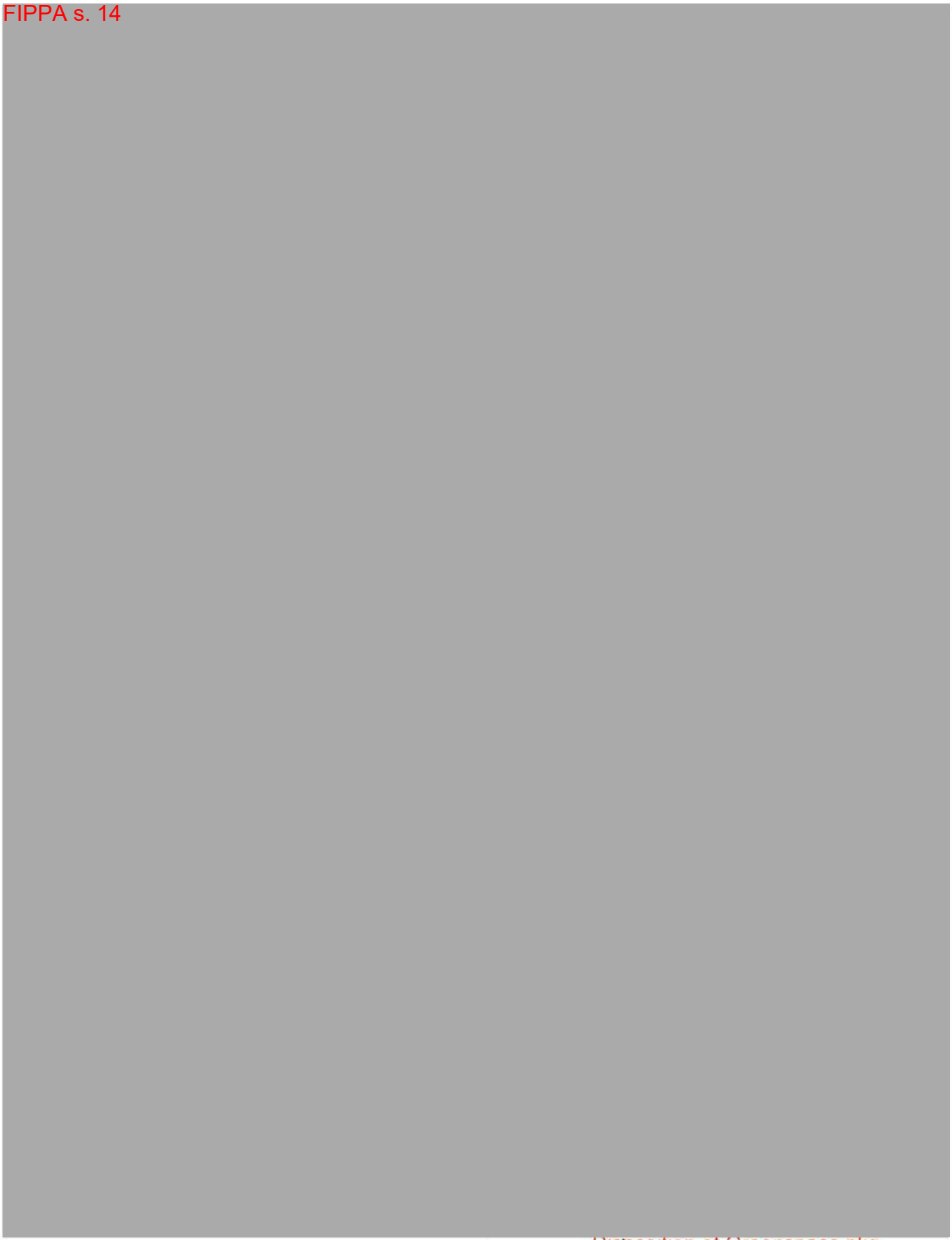



FIPPA s. 14

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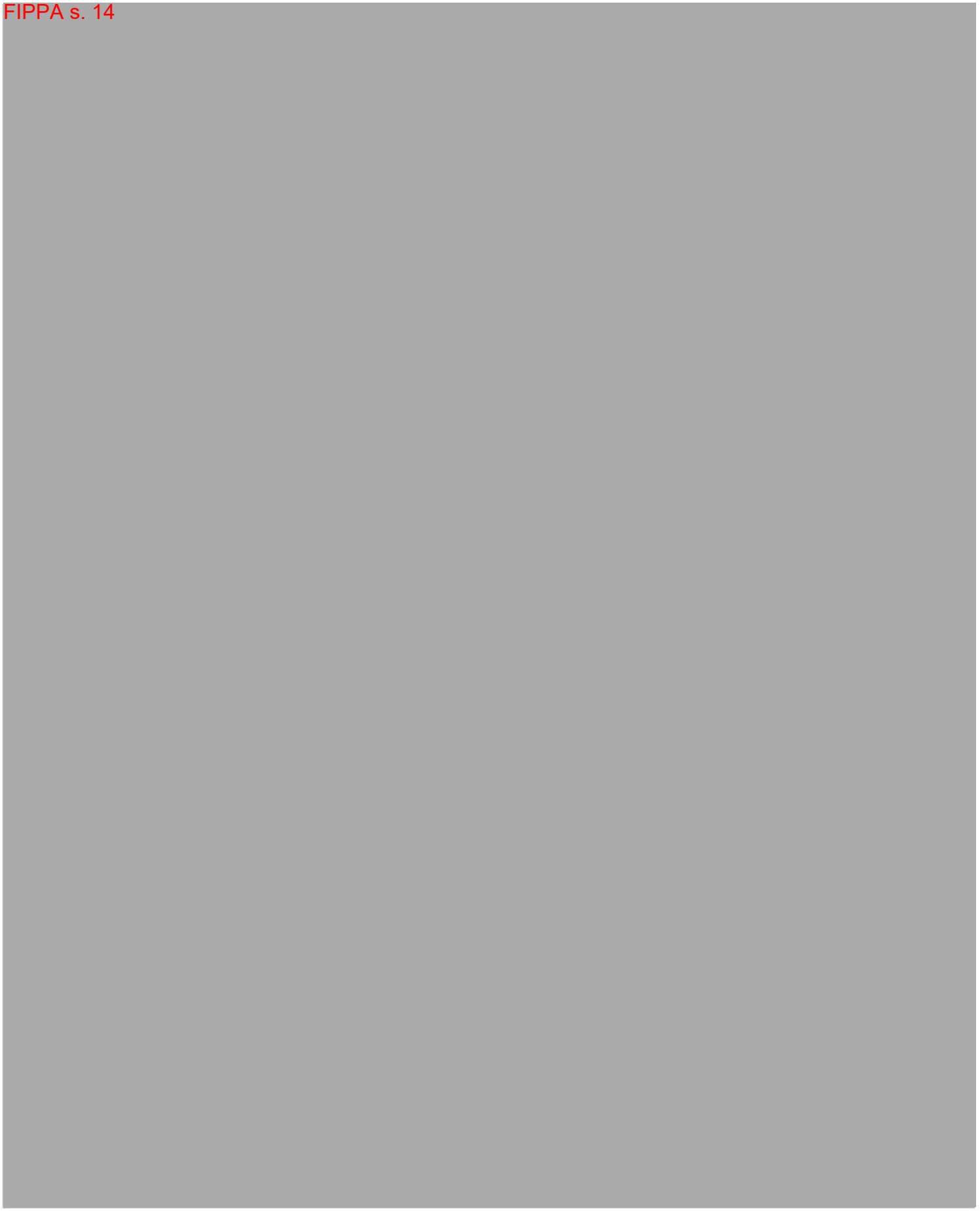
FIPPA s. 14



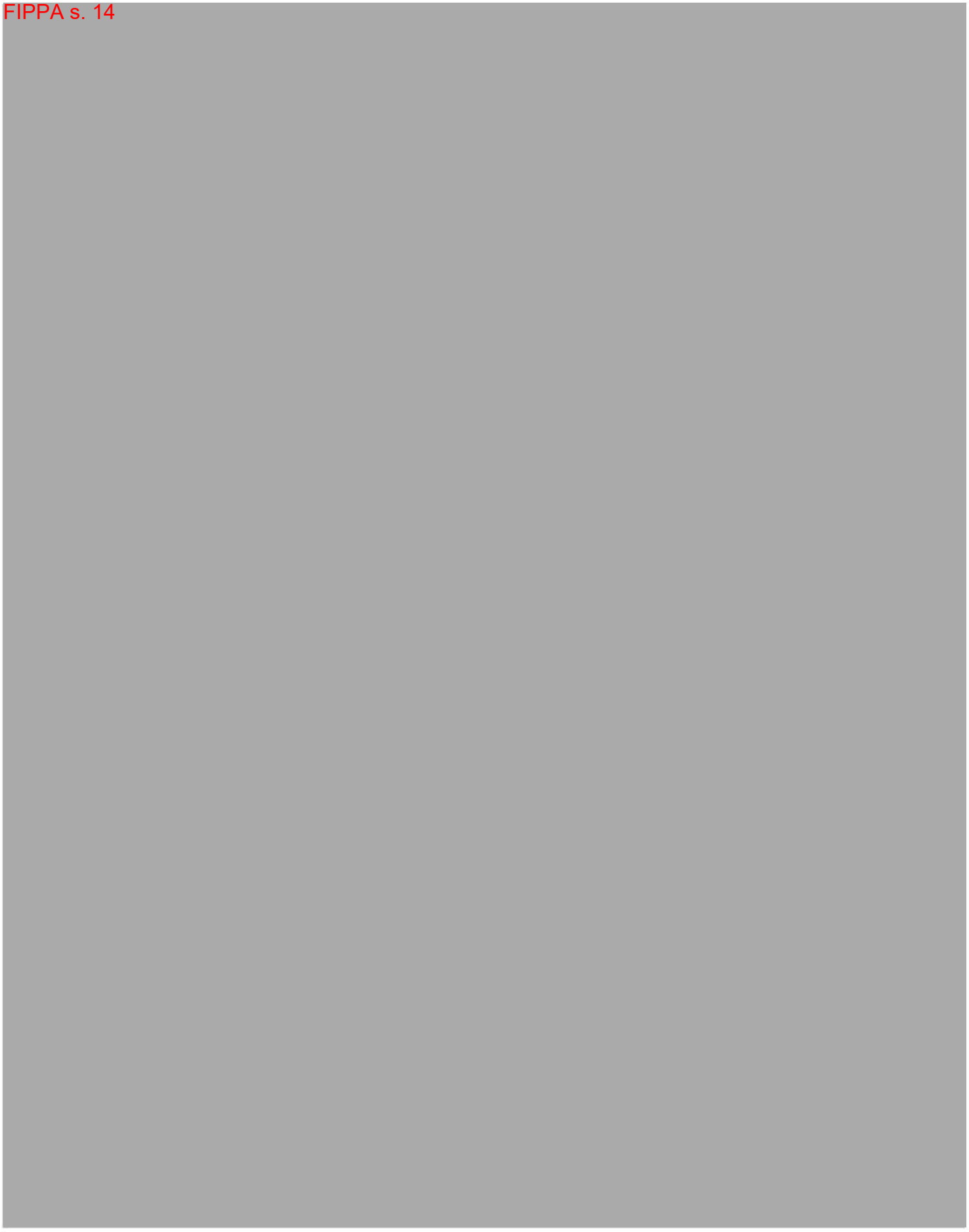
FIPPA s. 14

FIPPA s. 14

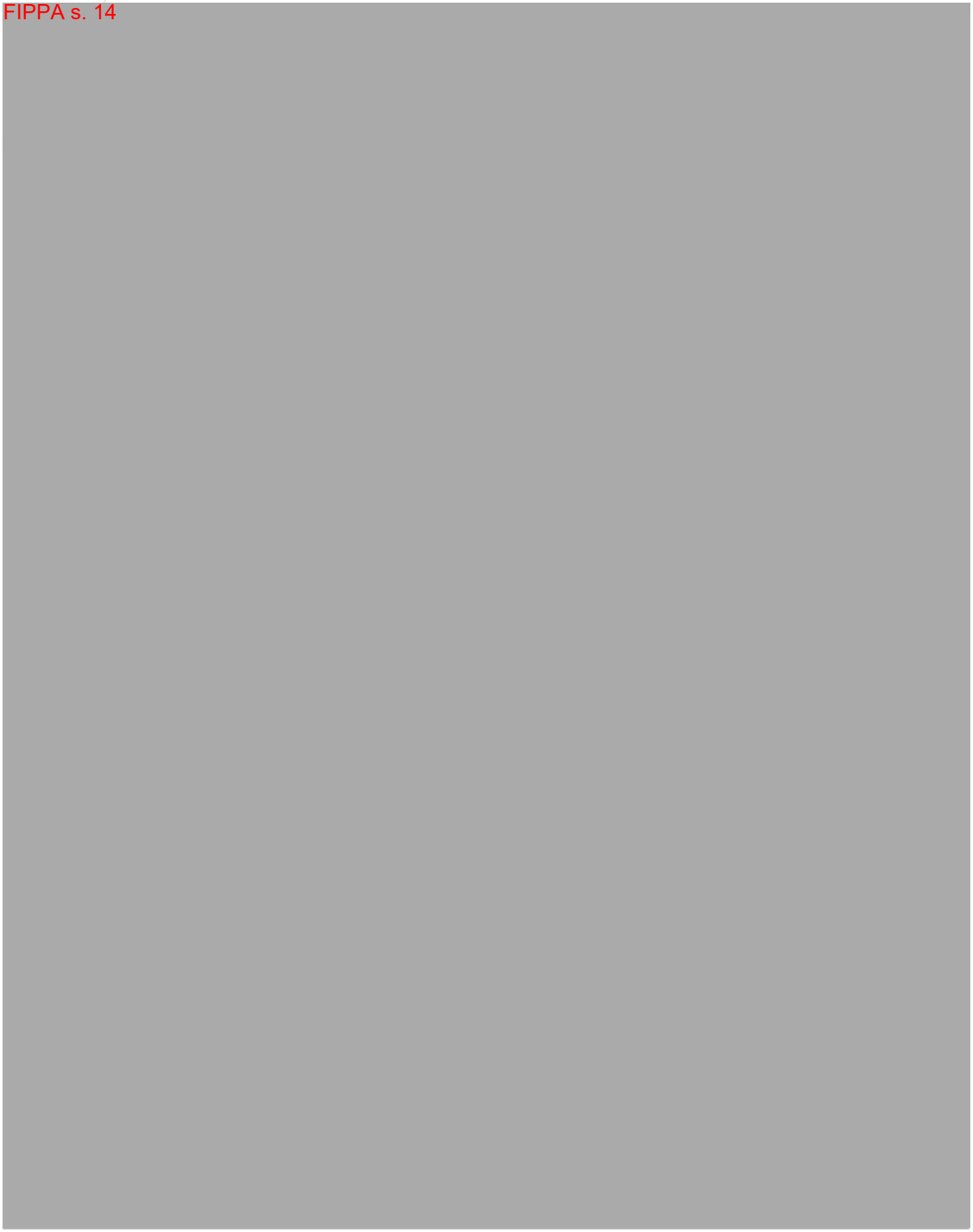
FIPPA s. 14



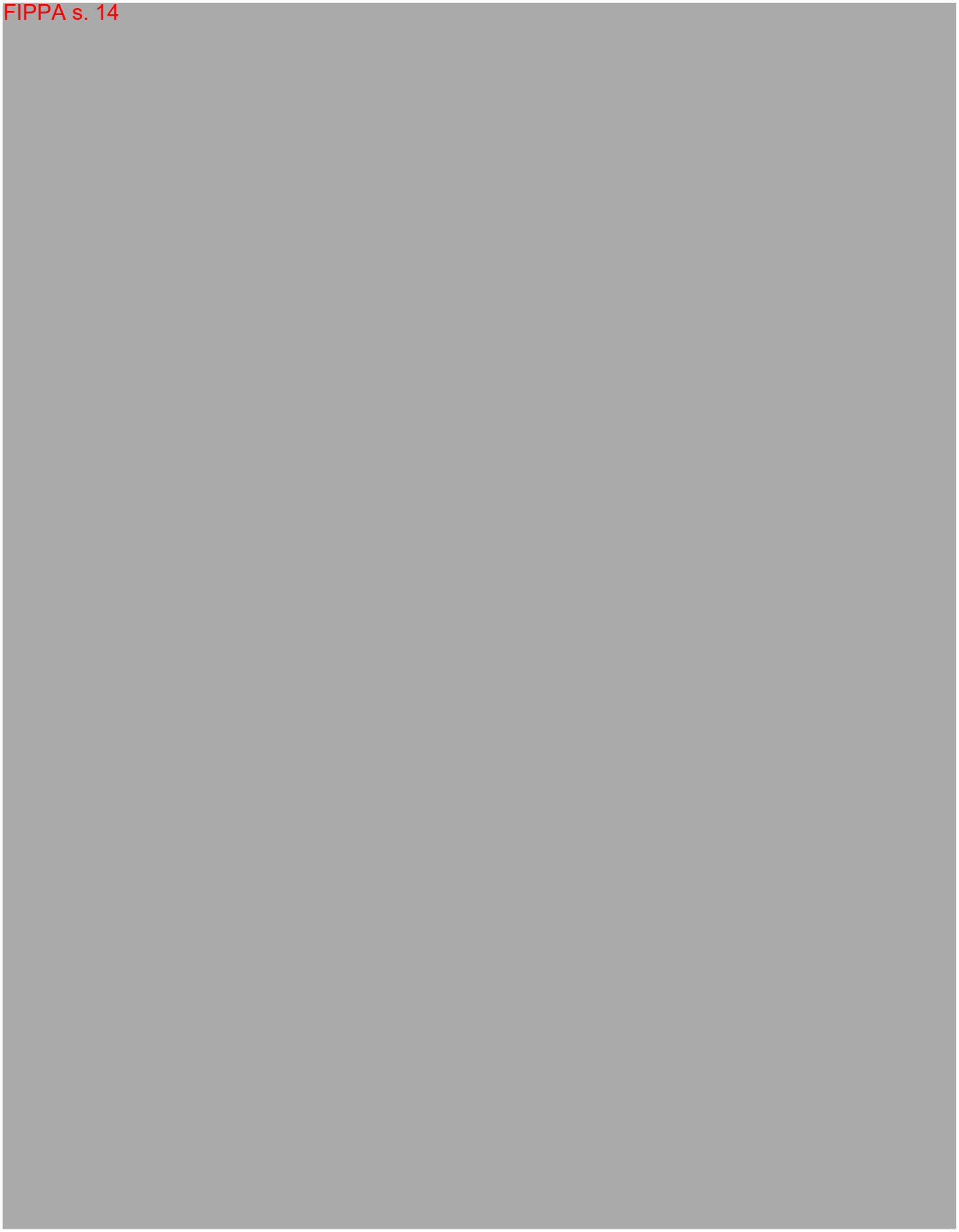
FIPPA s. 14



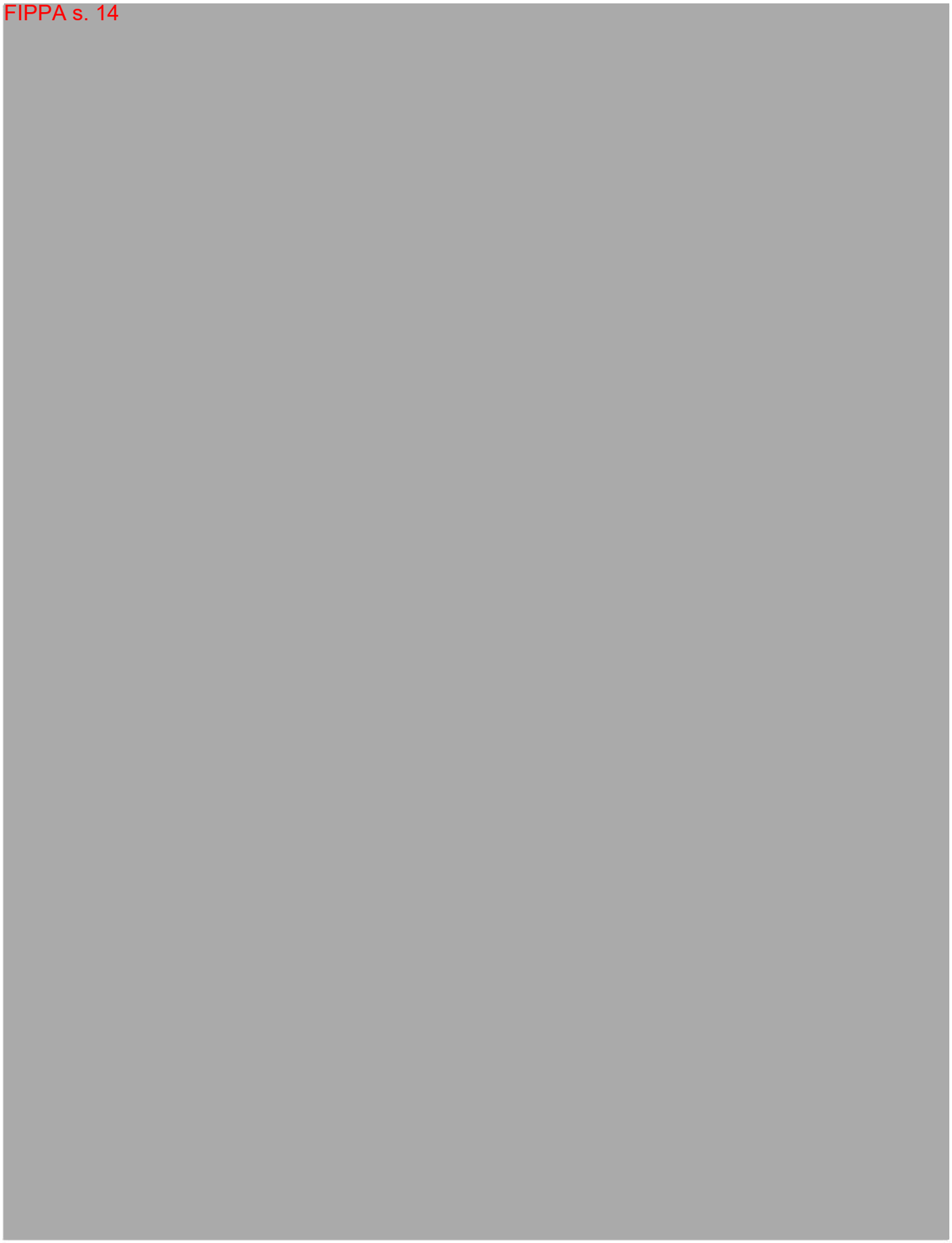
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PURCHASE AGREEMENT

THIS AGREEMENT dated for reference this____day ____ of _____, 2021.

BETWEEN:

DISTRICT OF METCHOSIN

4450 Happy Valley Road
Victoria, BC V9C 3Z3
(the "**Vendors**")

OF THE FIRST PART

AND:

CAPITAL REGIONAL DISTRICT

625 Fisgard Street
Victoria, BC V8W 2S7

(the "**Purchaser**")

OF THE SECOND PART

WHEREAS:

A. The Vendors are the registered owners of the Property;

B. The Vendors have agreed to sell and the Purchaser has agreed to purchase all of the Vendors' right, title, and interest in the Property, on the terms and conditions set out in this Agreement.

NOW THEREFORE in consideration of the Purchase Price, and mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1.0 DEFINITIONS

1.1 In this Agreement the following terms shall have the following meanings:

"**Agreement**" means this Purchase Agreement, including its Schedules.

"**Closing Date**" means November 24, 2021 or such other date as agreed to by the parties in writing.

"**Contaminants**" means any explosives, radioactive materials, asbestos materials, urea formaldehyde, chlorobyphenols, hydrocarbon contaminates, underground or above ground tanks, pollutants, contaminants, hazards, corrosive or toxic substances, special waste, hazardous waste or waste of any kind or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws.

"**Deposit**" means the sum of $10,000.00.

"**Environmental Laws**" means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Property, now or hereafter in force with respect in any way to the environment, health or occupational health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time and the principles of common law and equity.

Property" means the land situate in British Columbia, legally described as:

PID: 030-095-875
LOT A SECTIONS 93 94 96 AND 108 METCHOSIN DISTRICT PLAN EPP69605

"**Permitted Encumbrances**" means all exceptions, reservations, legal notations, liens, charges, and encumbrances as shown on Schedule "A".

"**Purchase Price**" means the sum of Two Hundred and Seventy Four Thousand and Four Hundred Dollars ($274,400.00). "

Purchaser's Solicitor" means Stewart McDannold Stuart.

2.0 PURCHASE AND SALE

2.1 The Purchaser agrees to purchase from the Vendors, and the Vendors agree to sell to the Purchaser, on the terms and conditions contained in this Agreement, a good and marketable freehold title to the Property, free and clear of all liens, charges and encumbrances, except for the Permitted Encumbrances.

2.2 The Purchase Price

The Purchase Price payable by the Purchaser to the Vendors for the Property shall be subject to the adjustments described in Article 2.4 and shall be exclusive of GST. Any and all other costs (including GST), duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind (other than income taxes and other amounts payable pursuant to the *Income Tax Act* or any similar statute of any province or territory of Canada) that are payable as a consequence of the purchase of the Property pursuant to this Agreement are the sole responsibility of, and are for the account of, the Purchaser.

The Purchaser will pay the Purchase Price to the Vendors as follows:

(a) as to the Deposit by payment to Purchaser's Solicitor within 5 days of the satisfaction or if applicable, waiver of the conditions in sections 5.1 and 5.2 by cheque, bank draft, cash, or solicitor's or notary's trust cheque;

(b) as to the balance of Two Hundred and Sixty Four Thousand and Four Hundred Dollars ($264,400) by payment to the Vendors' solicitor on or before the Closing Date in accordance with Article 7.0.

2.3 Application of Deposits

(a) The Deposits will be paid to the Vendors:

(i) on the Closing Date on account of the Purchase Price, if the Vendors and the Purchaser complete the sale and purchase of the Property on the Closing Date; or

(ii) upon the default of the Purchaser, if the Purchaser is in default under this Agreement, unless such default is waived in writing by the Vendors and the Deposit so paid to the Vendors will be in complete satisfaction of any claim arising against the Purchaser; or

(b) The Deposits will be returned to the Purchaser:

(i) upon the default of the Vendors and the Deposits so returned to the Purchaser will be without prejudice to any other right or remedy of the Purchaser, if the Vendors are in default of its obligation to complete the sale of the Purchased Property hereunder, unless such default is waived in writing by the Purchaser or the Purchaser has elected to complete the purchase of the Purchased Property without prejudice to any other right or remedy of the Purchaser.

2.4 Adjustments

The Vendors and Purchaser will make all adjustments to and including the Closing Date with respect to taxes, utilities, rents, and all other items normally adjusted between a vendor and purchaser on the sale of similar property.

3.0 REPRESENTATIONS AND WARRANTIES

3.1 Purchaser's Representations and Warranties

The Purchaser represents and warrants to the Vendor the Purchaser has full power, authority and capacity to enter into this Agreement and carry out the transactions contemplated herein.

3.2 Vendor's Representations and Warranties

The Vendor represents and warrants to the Purchaser that as of the date of this Agreement and the Closing Date:

(a) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);

(b) the Vendor is the registered and beneficial owner of the Property, and has good and marketable title to the Property free and clear of all liens, charges, and encumbrances except for the Permitted Encumbrances.

3.3 Survival of Vendors' Representations and Warranties

The representations and warranties contained in section 3.1 shall survive the Closing Date and shall continue in full force and effect for the benefit of the Purchaser 2 years after the Closing Date notwithstanding any independent inquiry or investigation by the Purchaser or the waiver by the Purchaser of any condition set out in article 3.0, the subject matter of which is contained in a representation or warranty in this Agreement.

4.0 COVENANTS

4.1 Vendors' Covenants

The Vendor covenants with the Purchaser to:

(a) permit the Purchaser and its representatives to enter onto the Property and carry out such inspections, assessments, tests, studies, appraisals, surveys and investigations of the Property as the Purchaser may reasonably require;

(b) cause the Property to be maintained as may be required before the Closing Date in the manner of a prudent owner;

(c) not enter into or amend any contract with respect to the Property before the Closing Date, without consent of the Purchaser, which may be withheld in the Purchaser's sole discretion.

4.2 Purchaser's Covenant

The Purchaser covenants and agrees with the Vendor that:

(a) the Purchaser is purchasing the Property on an "as is where is" basis and, without limiting the generality of the foregoing, the Purchaser has and hereafter will continue to use its own due diligence, resources and independent investigations to satisfy itself on every aspect, thing and matter relating to or in connection with the Property and neighboring properties including, but not limited to zoning, land use planning, current and past uses of the Property and neighboring properties, existence of Contaminants and compliance with Environmental Laws;

(b) the Purchaser will manage the Property as a Regional Park, as defined in the Local Government Act, as part of the Purchaser's Regional Park system. This covenant is not a condition subsequent to this agreement and shall not fetter the legislative discretion of the Board of the Capital Regional District.

5.0 CONDITIONS

5.1 Purchaser's Conditions

The obligation of the Purchaser to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being in effect or satisfied on or before October 1, 2021:

(a) the Vendors deliver a site disclosure statement in accordance with the *Environmental Management Act* and *Regulations;*

(b) the Purchaser is satisified with the results of all due diligence conducted by the Purchaser relating to the land acquisition;

(c) the Purchaser is satisified with the results of an environmental site assessment of the Property to be conducted by the Purchaser;

(d) the Purchaser is satisfied with a site inspection of the Property;

(e) the Purchaser is satisfied with the survey of the Property, prepared by a BC Land Surveyor, at the Purchaser's cost.

(f) the Purchaser is satisfied with the review of title and that all Permitted Encumbrances are consistent with the Purchaser's intended use;

(g) the Purchaser is satisfied with the terms of access across, or alternative access around, the provincial Crown land (SECTION 95, METCHOSIN DISTRICT, PID 010 974 385);

(h) the Purchaser is satisfied with the potential alignment of recreational trails to access and cross the lands legally described as Lot D SECTIONS 93 94 96 AND 108 METCHOSIN DISTRICT PLAN EPP6960, PID 030 095 905). ;

(i) approval of the Board of the Capital Regional District, in its sole discretion, of the purchase of the Property on the terms and conditions set out in this Agreement.

5.2 Vendor's Conditions

The obligation of the Vendor to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being in effect or satisfied on or before October 1, 2021:

(a) notice of disposition of the Property having been published by the Vendor in accordance with section 26 of the *Community Charter*;

(b) the Council of the District of Metchosin, in its sole discretion, approves of the purchase of the Property on the terms and conditions set out in this Agreement.

5.3 Satisfaction of Conditions

(a) Should the condition precedent set out in section 5.1(i) not be satisfied, this Agreement shall be null and void. The Purchaser may elect to waive the conditions set out in ection 5.1(a)-(i).

(b) Should the condition precedent set out in section 5.2 not be satisfied, this Agreement shall be null and void.

(c) In consideration of Ten ($10.00) Dollars non-refundable paid by the Purchaser to the Vendors and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Vendors, the Vendors agree not to revoke its acceptance of the Purchaser's offer contained herein while this Agreement remains subject to any of the conditions precedent in section 5.1 and 5.2. The parties agree that this Agreement will become an unconditional contract for sale and purchase of the Property upon the satisfaction or , if applicable, waiver of all of the conditions precedent in sections 5.1 and 5.2.

6.0 RISK/POSSESSION

6.1 The Passing of Risk

The Property is at the risk of the Vendors until completion of the closing under section 7.0.

6.2 Possession

The Purchaser shall have the right to vacant possession of the Property on the Closing Date, subject only to:

(a) all exceptions, reservations, provisos contained in the original Crown grant; and

(b) the Permitted Encumbrances referred to in section 2.1 above.

7.0 CLOSING PROCEDURE

7.1 The Closing

The closing of the purchase and sale of the Property will occur on the Closing Date.

7.2 Vendors' Documents

On or before the Closing Date, the Vendors shall deliver the following documents to the Purchaser:

(a) an executed registrable Form A Freehold Transfer (the "**Transfer**");

(b) executed statutary declarations of residency pursuant to the *Income Tax Act*;

(c) an executed Vendor's Statement of Adjustments; and

(d) such other documents and assurances as may be reasonably required to give full effect to the intent and meaning of this Agreement.

7.3 Purchaser's Documents

On or before the Closing Date, the Purchaser shall deliver to the Purchaser's solicitor the following:

(a) an executed certificate regarding GST registration and status; and

(b) such other documents and assurances as may be reasonably required to give full effect to the intent and meaning of this Agreement.

7.4 Preparation of Closing Documents

The closing documents referred to in section 7.2 and 7.3 shall be prepared by the Purchaser's Solicitors. The documents referred to in section 7.2 will be delivered to the Vendors' solicitor for the Vendors' execution 7 days prior to the Closing Date. The closing documents referred to in section 7.3 will be delivered to the Purchasers for execution prior to the Closing Date.

7.5 Payment in Trust

On or before the Closing Date the Purchaser will pay to the Purchaser's Solicitors in trust the balance of the Purchase Price, as adjusted under section 2.4.

7.6 Registration

The Purchaser will cause the Purchaser's Solicitors to file the Transfer in the appropriate Land Title Office promptly following:

(a) the payment in section 7.5, and

(b) the receipt by the Purchaser's Solicitor of the documents and assurances referred to in section 7.2.

7.7 Closing

(a) Promptly following the filing referred to in section 7.6 and upon the Purchaser's Solicitor being satisfied, after conducting a post registration search, that in the normal course of the Land Title Office's registration procedures the Purchaser will have a good and marketable freehold title to the Property subject only to the Permitted Encumbrances, and any financial encumbrances to be discharged by the Vendors under section 7.9, the Purchaser will cause the Purchaser's Solicitor to make available to the Vendors' solicitor a trust cheque for the balance of the Purchase Price, as adjusted under section 2.4; and

(b) the documents and assurances referred to in section 7.3 will be released to the Vendors.

7.8 Concurrent Requirements

It is a condition of this Agreement that all requirements of this article 7.0 are concurrent requirements and it is specifically agreed that nothing will be completed on the Closing Date until everything required to be paid, executed and delivered on the Closing Date has been so paid, executed and delivered and until the Purchaser's solicitors have satisfied themselves as to the Purchaser's title under section 7.7.

7.9 Discharge of Vendors' Encumbrances

The Purchaser acknowledges and agrees that if the Vendors' title to the Property is subject to any financial encumbrance which is required to be discharged by the Vendors, the Vendors will not be required to clear title before the receipt of the net sales proceeds but will be obligated to do so within a reasonable time following closing and the Purchaser will cause its solicitors to pay the balance of the adjusted Purchase Price to the Vendors' solicitors in trust on their undertaking to discharge any such financial encumbrance in accordance with the Canadian Bar Association (B.C. Branch, Real Property Section) Standard Undertakings.

7.10 Election

If on the Closing Date any of the representations or warranties made by the Vendors are untrue (in any material respect) or the Vendors are in default in any material respect under any of the covenants and agreements to be observed or performed by the Vendors under this Agreement, the Purchaser may elect not to complete the purchase of the Property under this Agreement or to complete the purchase of the Property under this Agreement, in either case without prejudice to any rights or remedies the Purchaser may have in respect of the Vendors' breach or default.

8.0 MISCELLANEOUS

8.1 Time

Time is of the essence of this Agreement and the transactions contemplated in this Agreement notwithstanding the extension of any of the dates under this Agreement.

8.2 Relationship of the Parties

Nothing in this Agreement shall be construed so as to make the Purchaser a partner of the Vendors or an owner of the Property for any purpose, including the *Builders Lien Act*, until the completion of the purchase and sale on the Closing Date, and, subject to section 4.1(a) the Vendors shall indemnify and save the Purchaser harmless from any and all costs, expenses, damages, claims, or liabilities which may be incurred with respect to the Property before the Closing Date which the Purchaser is not obligated to assume under this Agreement, and this provision shall survive the Closing Date or the termination of this Agreement.

8.3 Notices

(a) each notice sent pursuant to this Agreement ("**Notice**") shall be in writing and shall be sent to the relevant Party at the relevant address, facsimile number or e-mail address set out below. Each such Notice may be sent by registered mail, by commercial courier, by facsimile transmission, or by electronic mail;

(b) the Contact Information for the parties is:

Purchaser:

CAPITAL REGIONAL DISTRICT
625 Fisgard Street
Victoria, BC V8W 2S7

Attention: Stephen Henderson
Telephone:250-360-3136
Email:shenderson@crd.bc.ca

Vendors:

DISTRICT OF METCHOSIN
4450 Happy Valley Road
Victoria, BC V9C 3Z3

Attention: Lisa Urlacher
Telephone:250 474-3167
Email: lurlacher@metchosin.ca

each Notice sent by electronic mail ("**E-Mail Notice**") must show the e-mail address of the sender, the name or e-mail address of the recipient, and the date and time of transmission, must be fully accessible by the recipient, and unless receipt is acknowledged, must be followed within twenty-four (24) hours by a true copy of such Notice, including all addressing and transmission details, delivered (including by commercial courier) or sent by facsimile transmission;

(c) subject to section 8.3(f) through (h) each Notice shall be deemed to have been given or made at the following times:

(i) if delivered to the address (including by commercial courier), on the day the Notice is delivered;

(ii) if sent by registered mail, seven (7) days following the date of such mailing by sender;

(iii) if sent by facsimile transmission, on the date the Notice is sent by facsimile transmission; or

(iv) if sent by electronic mail, on the date the E-Mail Notice is sent electronically by e-mail by the sender;

(d) if a Notice is delivered, sent by facsimile transmission or sent by electronic mail after 4:00 p.m., or if the date of deemed receipt of a Notice falls upon a day that is not a business day, then the Notice shall be deemed to have been given or made on the next business day following;

(e) notice given by facsimile transmission in accordance with the terms of this section 8.3 will only be deemed to be received by the recipient if the sender's facsimile machine generates written confirmation indicating that the facsimile transmission was sent;

(f) if normal mail service, facsimile or electronic mail is interrupted by strike, slow down, force majeure or other cause beyond the control of the parties, 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 shall utilize any other such services which have not been so interrupted or shall personally deliver such Notice in order to ensure prompt receipt thereof; and

(g) each Party shall provide Notice to the other Party of any change of address, facsimile number, or e-mail address of such Party within a reasonable time of such change.

8.4 Further Assurances

Each of the parties shall, at the expense of the other party, execute and deliver all such further documents and do such further acts and things as the other party may reasonably request from time to time to give full effect to this Agreement.

8.5 Assignment

The Purchaser may not assign its rights under this Agreement

8.6 Non-merger

None of the provisions of this Agreement shall merge in the transfer of the Property or any other document delivered on the Closing Date, and the provisions of this Agreement shall survive the Closing Date.

8.7 Payment of Fees

Each party shall pay its own legal fees. The Purchaser shall be responsible for all registration fees payable in connection with registration of the transfer of land referred to in section 7.6. The Vendors shall be responsible for the costs of clearing title of any financial encumbrances.

8.8 Commission

The Vendors agree that it is the Vendors' responsibility to pay any real estate commission payable as a result of the purchase and sale of the Property and agrees to indemnify the Purchaser with respect to all real estate commissions in connection with the transaction and agrees that such commission shall be paid out of the Purchase Price on the Closing Date.

8.9 Goods and Services Tax

The Purchase Price does not include GST and the Purchasershall self-assess the GST and account directly to the Canada Revenue Agency therefor.

8.10 Binding Effect

This Agreement shall enure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, and other legal representatives and, to the extent permitted in this Agreement, their respective successors and assigns.

8.11 No Derogation from Statutory Powers

Nothing in this Agreement shall be interpreted as prejudicing or impairing the Purchaser in the exercise of any statutory legislative powers under the *Local Government Act*, the *Community Charter* or any other enactment all of which may be executed as if this Agreement had not been exercised. Provided that the foregoing shall not restrict or limit the rights and remedies of the Vendors resulting or arising from a breach or non-performance of the terms of this Agreement by the Purchaser

8.12 Extended Meanings

Words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.

8.13 Headings

The headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

8.14 Articles

For the purposes of this Agreement, except as otherwise expressly provided herein all references in this Agreement to an article, section, subsection, paragraph, or other subdivision, or to a schedule, is to the article, section, subsection, paragraph or other subdivision of or schedule to this Agreement unless otherwise specifically stated.

8.15 Applicable Law

This Agreement shall be interpreted in accordance with the laws of British Columbia.

8.16 Waiver

Except as may be specifically agreed in writing, no action or failure to act by a party to this Agreement shall constitute a waiver of any right or duty afforded any of them under this Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any breach of this Agreement.

8.17 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement and contains all of the representations, warranties, covenants and agreements of the respective parties, and may not be amended or modified except by an instrument in writing executed by all parties. This Agreement supersedes all prior agreements, memoranda, and negotiations between the parties.

8.18 Schedules

The Schedules attached to this Agreement form part of this Agreement.

8.19 Counterparts

This Agreement may be executed electronically, including through DocuSign and similar applications, in any number of counterparts (including counterparts by scanned or electronic signature), each of which will be deemed to be an original, but all of which shall constitute one and the same document. Delivery of a counterpart of this Agreement electronically (including by email, fax or over an electronic signature platform) will be for all purposes as effective as if the parties had delivered an original executed Agreement.

Signature Page to Follow

EXECUTED BY THE CAPITAL REGIONAL DISTRICT at Victoria, British Columbia, this 19 day of August, 2020

CAPITAL REGIONAL DISTRICT, by its authorized signatories)
)
)
)
)

_____
Name: NELSON CHAN, MBA, CPA, CMA
Chief Financial Officer
Capital Regional District

EXECUTED BY THE VENDORS at _____, British Columbia, this ____ day of _____, 2020

day of _____, 2020

DISTRICT OF METCHOSIN, by its authorized signatories

_____
Name:

_____
Name:

SCHEDULE "A"

Permitted Encumbrances

Legal Notations

HERETO IS ANNEXED RESTRICTIVE COVENANT CA5867521 OVER LOT D PLAN EPP69605

SUBJECT TO EXCEPTIONS AND RESERVATIONS CONTAINED IN CROWN GRANT FILED IN DD 258855I

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB466313

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB466314

Charges

~~Covenant - EG44432 -~~ need to be discharged
Covenant - EX2189 – needs to be discharged
Easement - CA5867519
Covenant - CA5867520
Statutory Right of Way - CA6808700

NOTICE OF DISPOSITION OF PROPERTY

Pursuant to Section 26(3) of the *Community Charter*, SBC 2003, c 26

TAKE NOTICE that the District of Metchosin (the "District") proposes to dispose of an interest in the following land to the Capital Regional District.

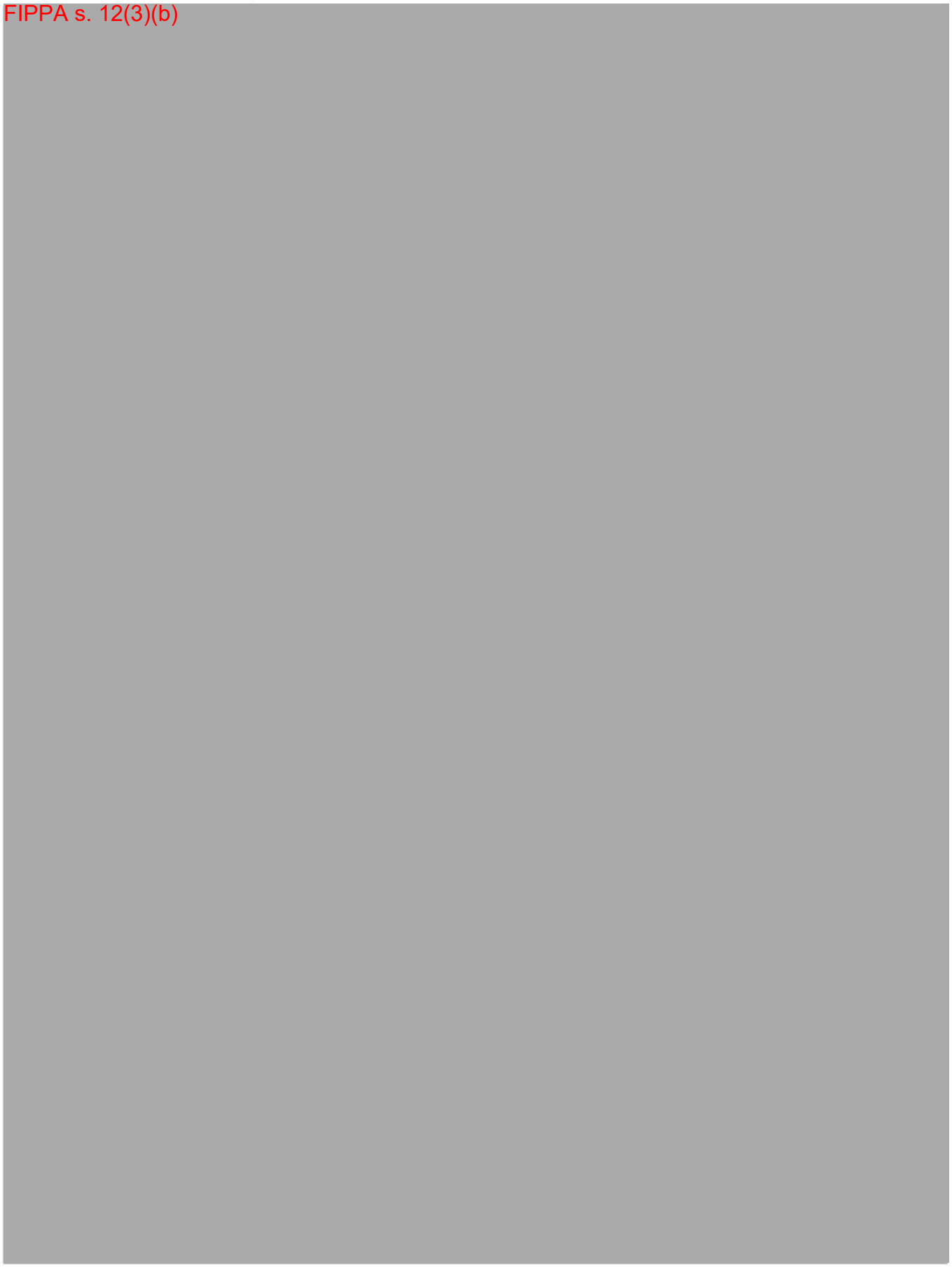
Legal Description: PID 030-095-875
Lot A Sections 93 94 96 and 108 Metchosin District Plan EPP69605

(the "Land")

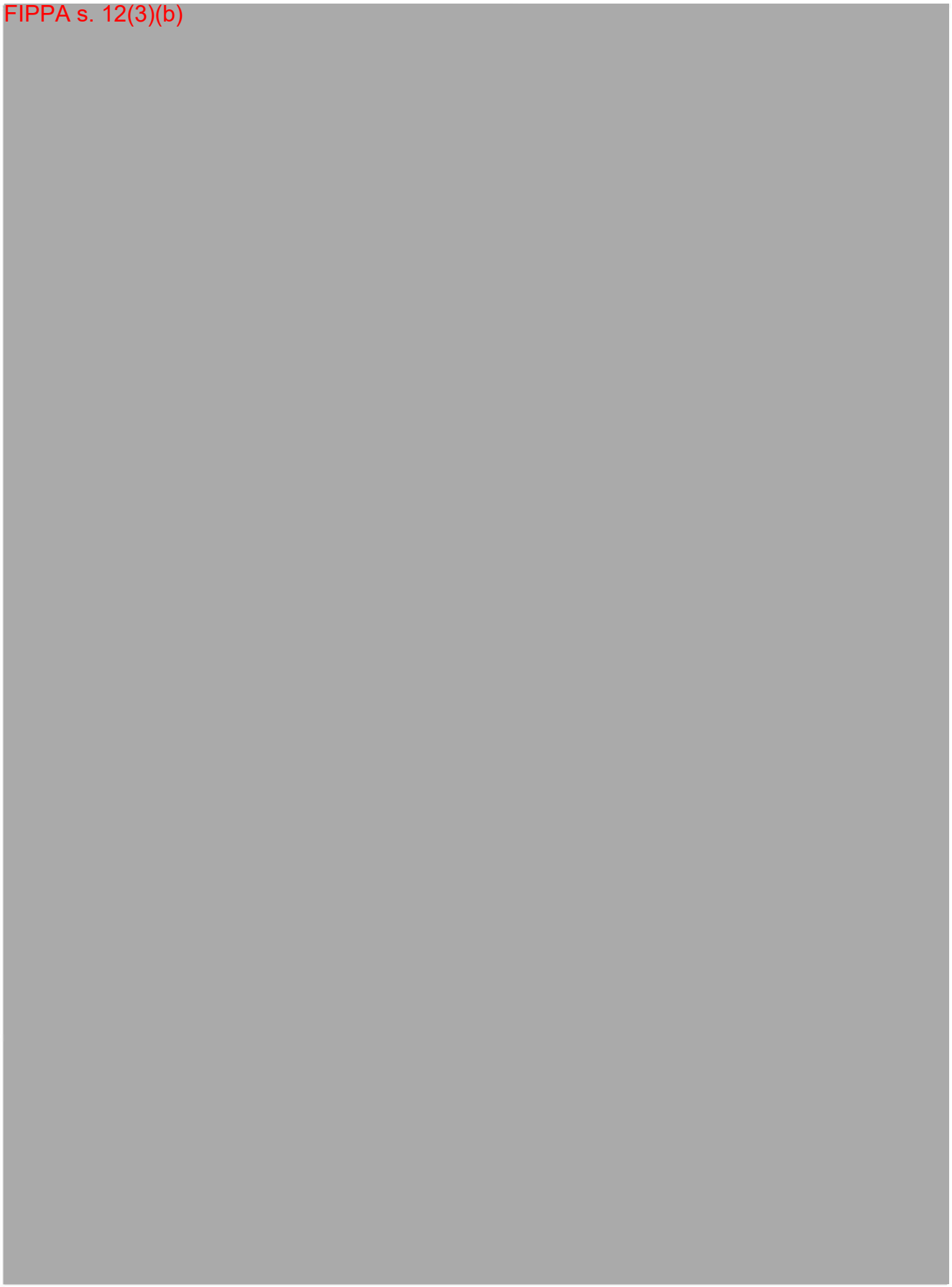
The proposed disposition is a sale of the fee simple interest in the Land. The consideration to be received by the District is the purchase price of $274,400.00.

Any enquiries concerning this proposed disposition may be directed to Lisa Urlacher, Chief Administrative Officer, at 250-474-3167 or lurlacher@metchosin.ca.

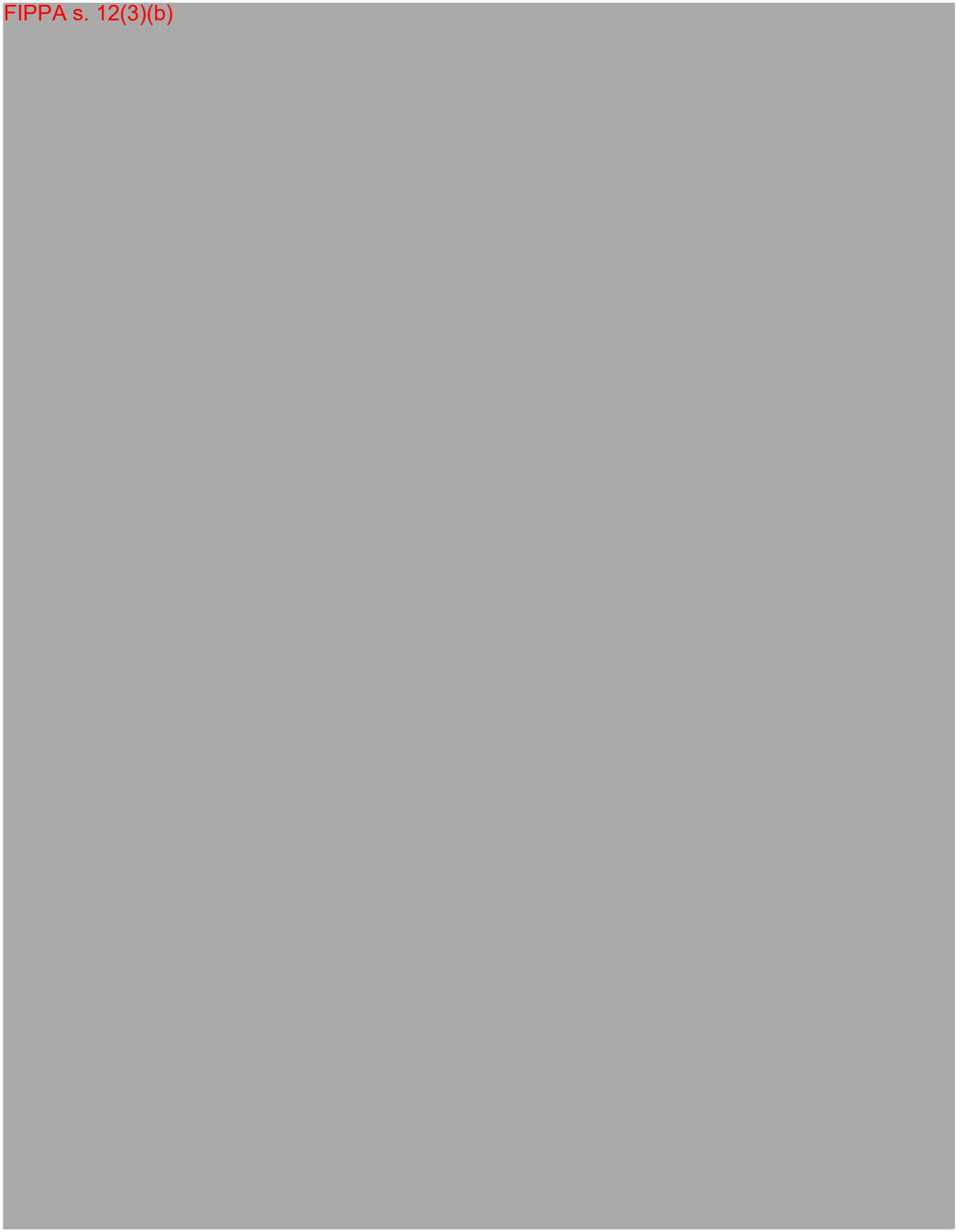
FIPPA s. 12(3)(b)



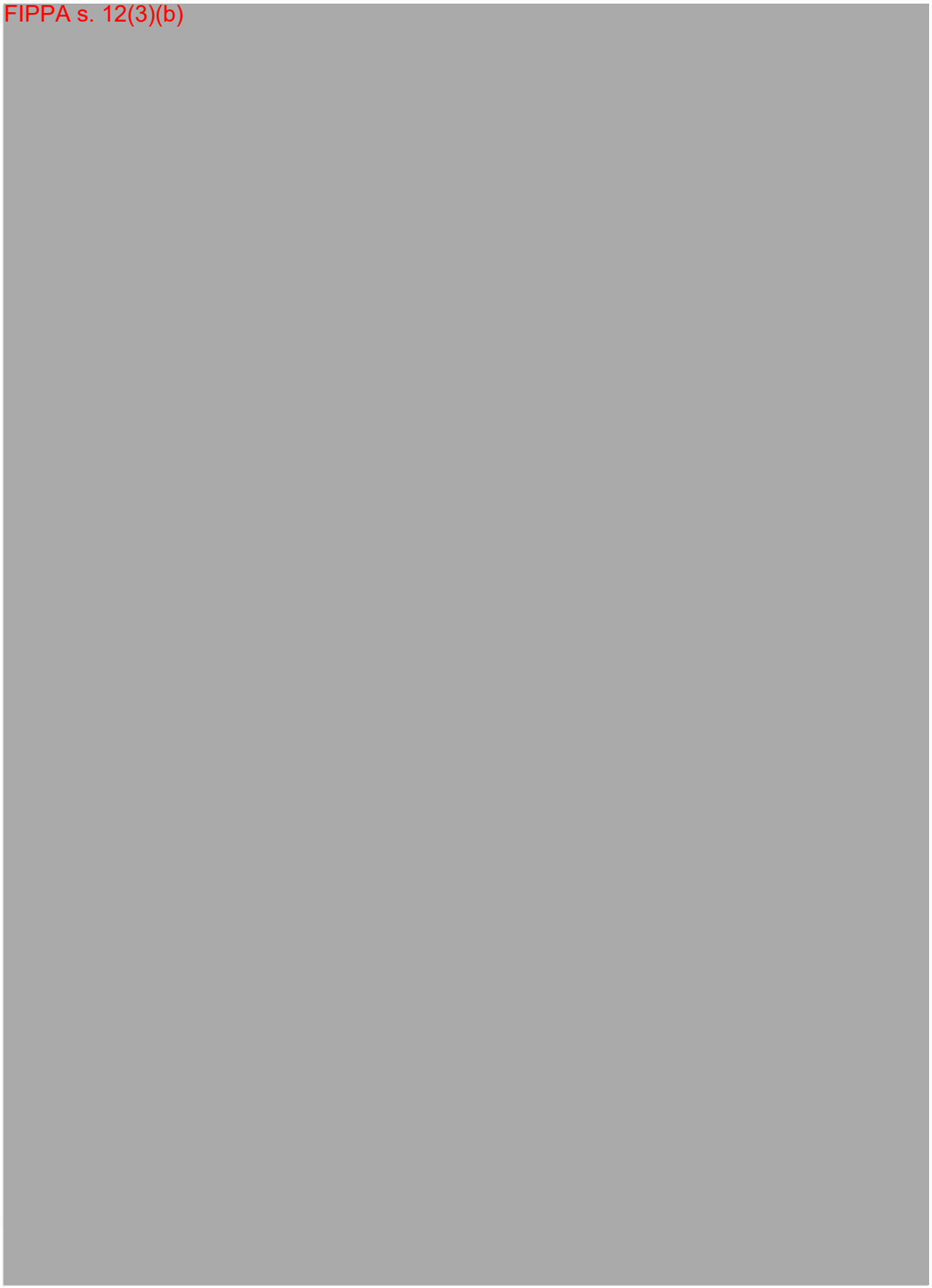
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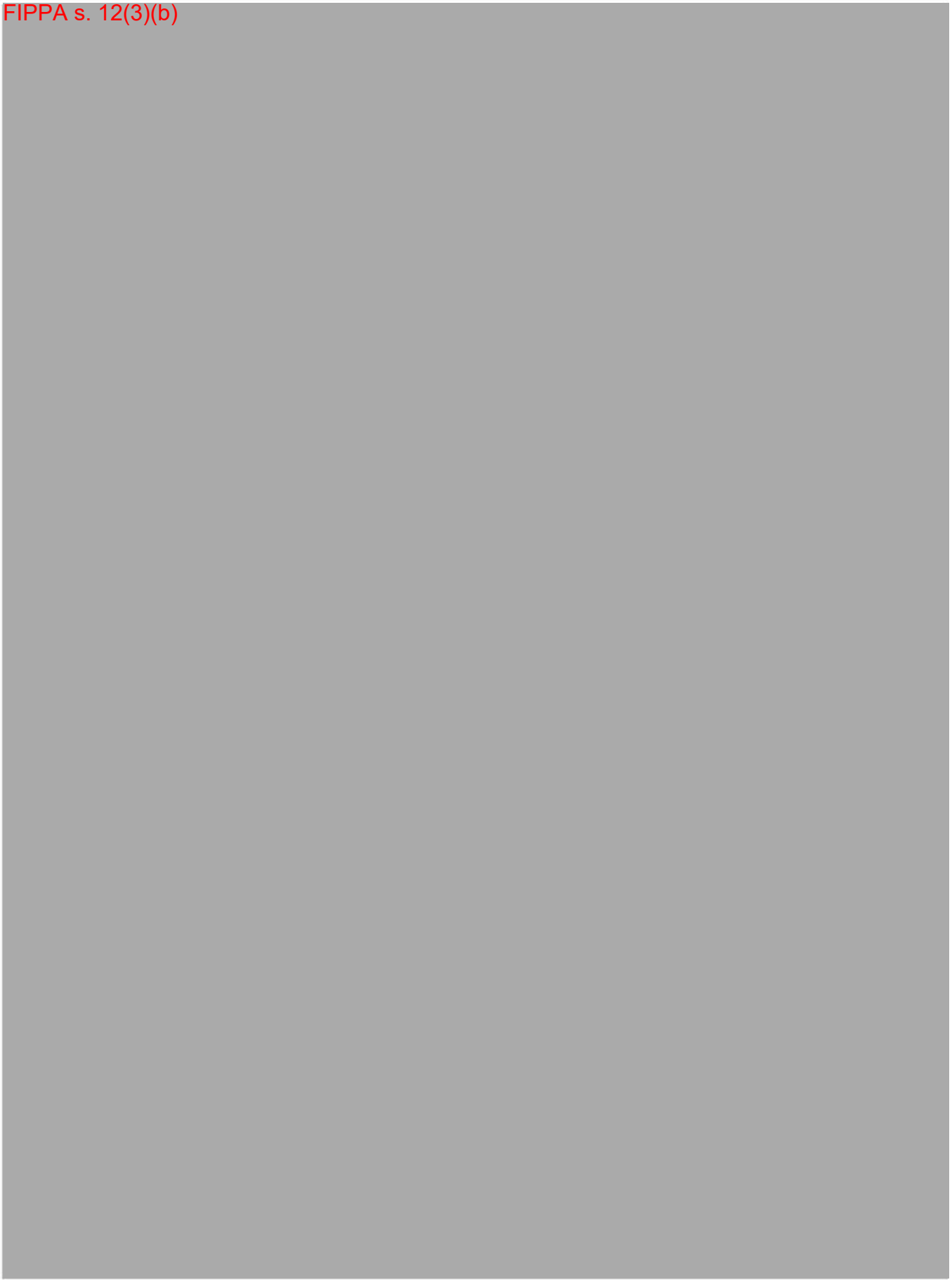
FIPPA s. 12(3)(b)



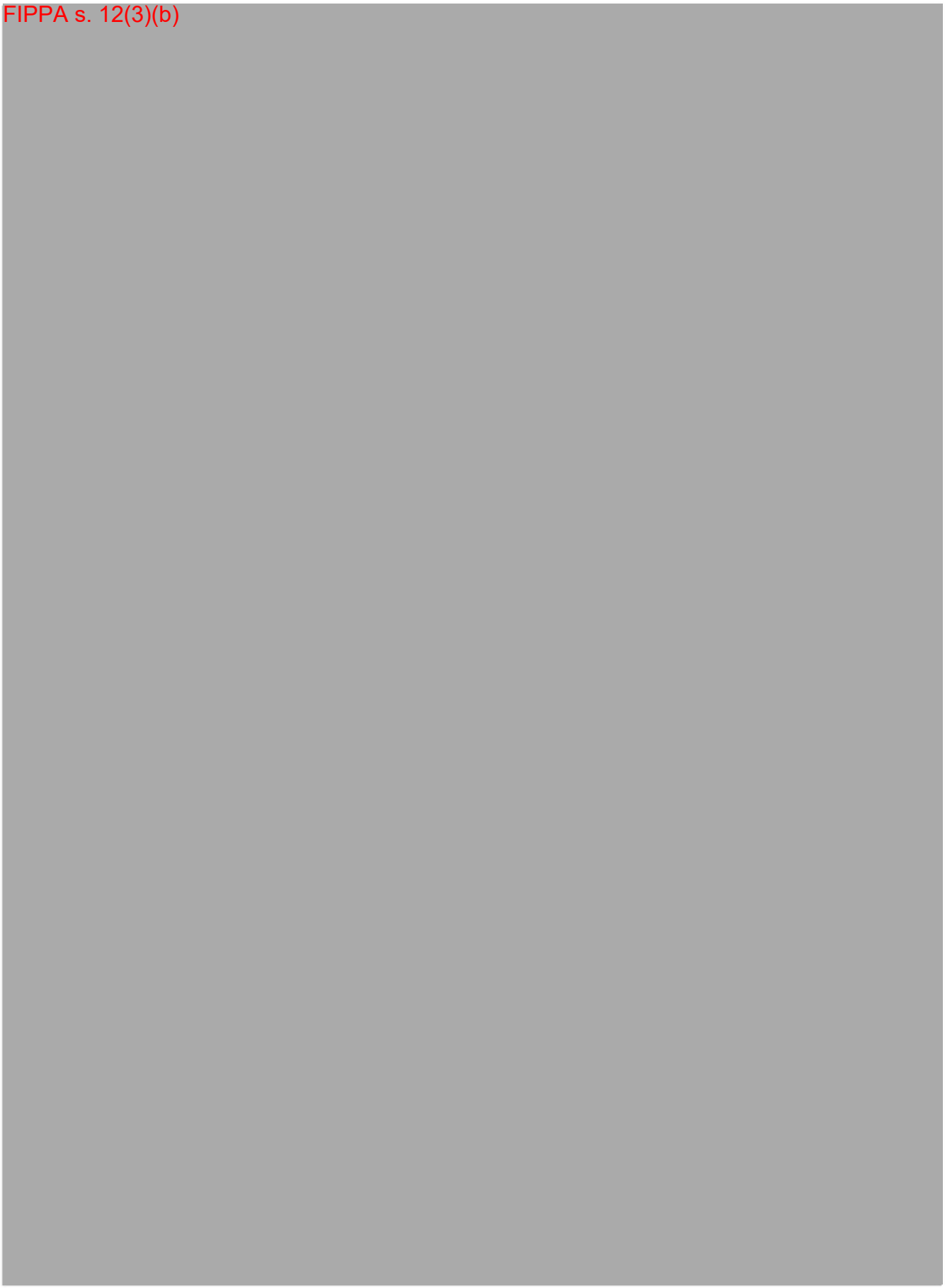
FIPPA s. 12(3)(b)



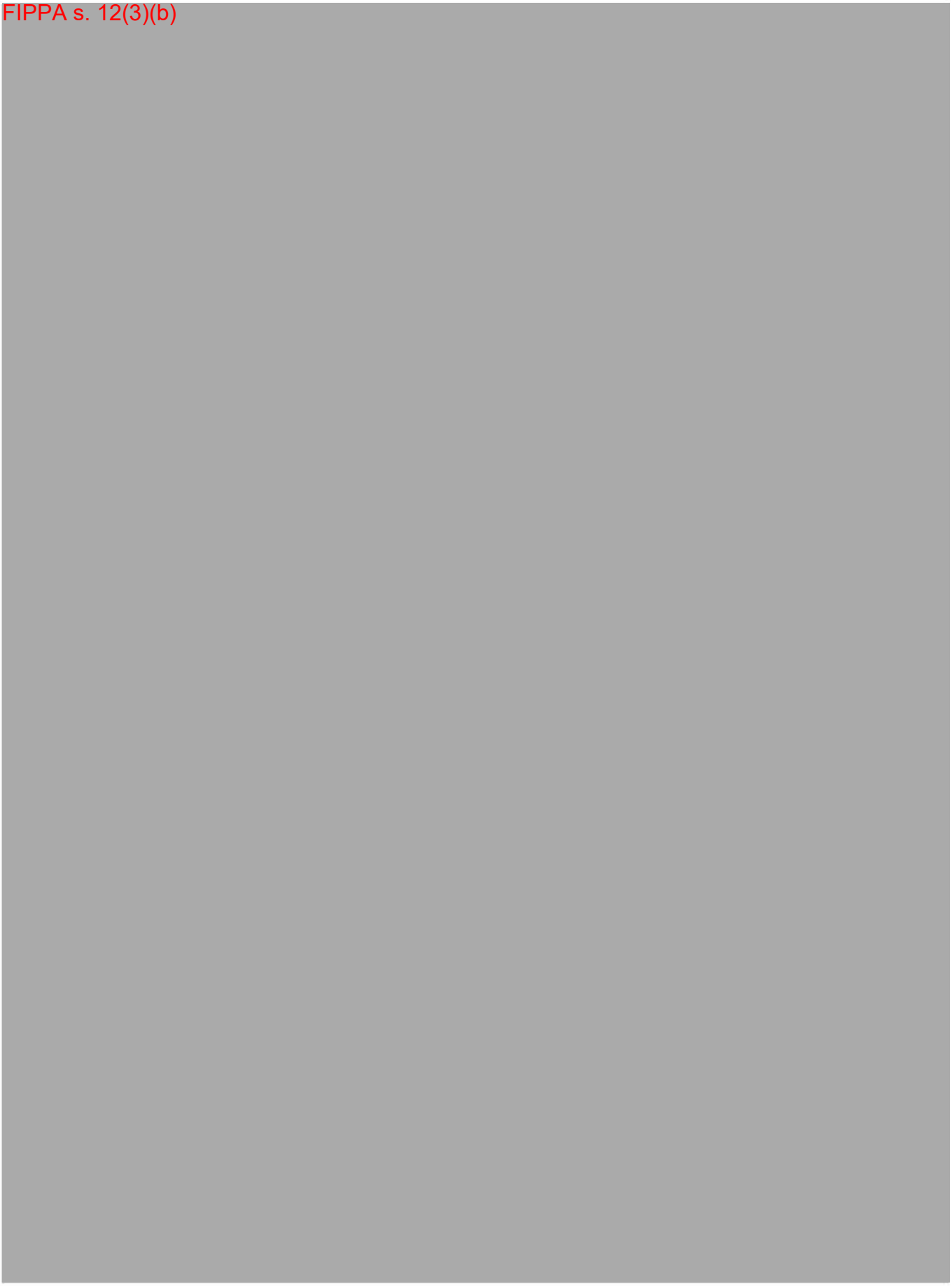
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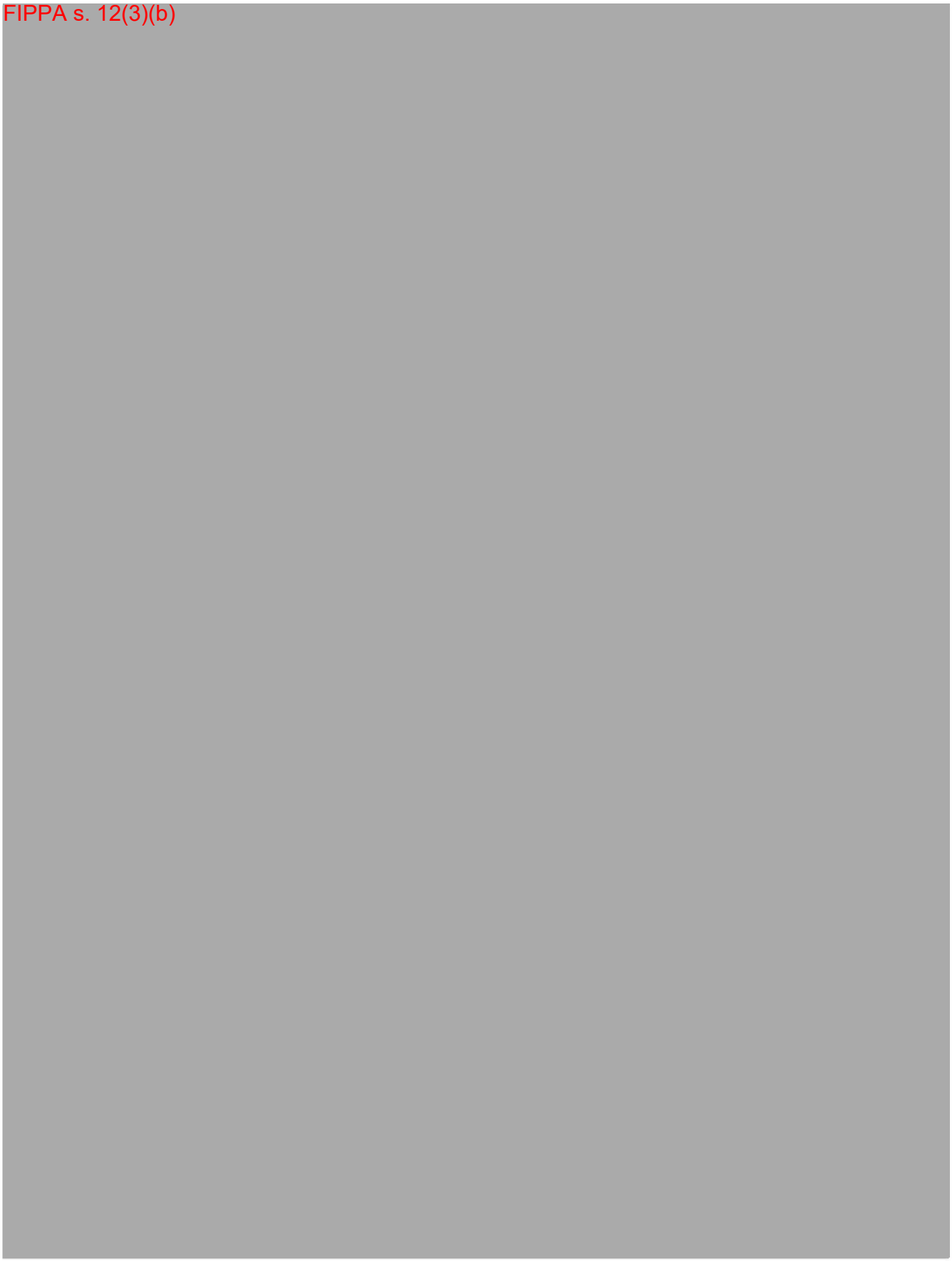
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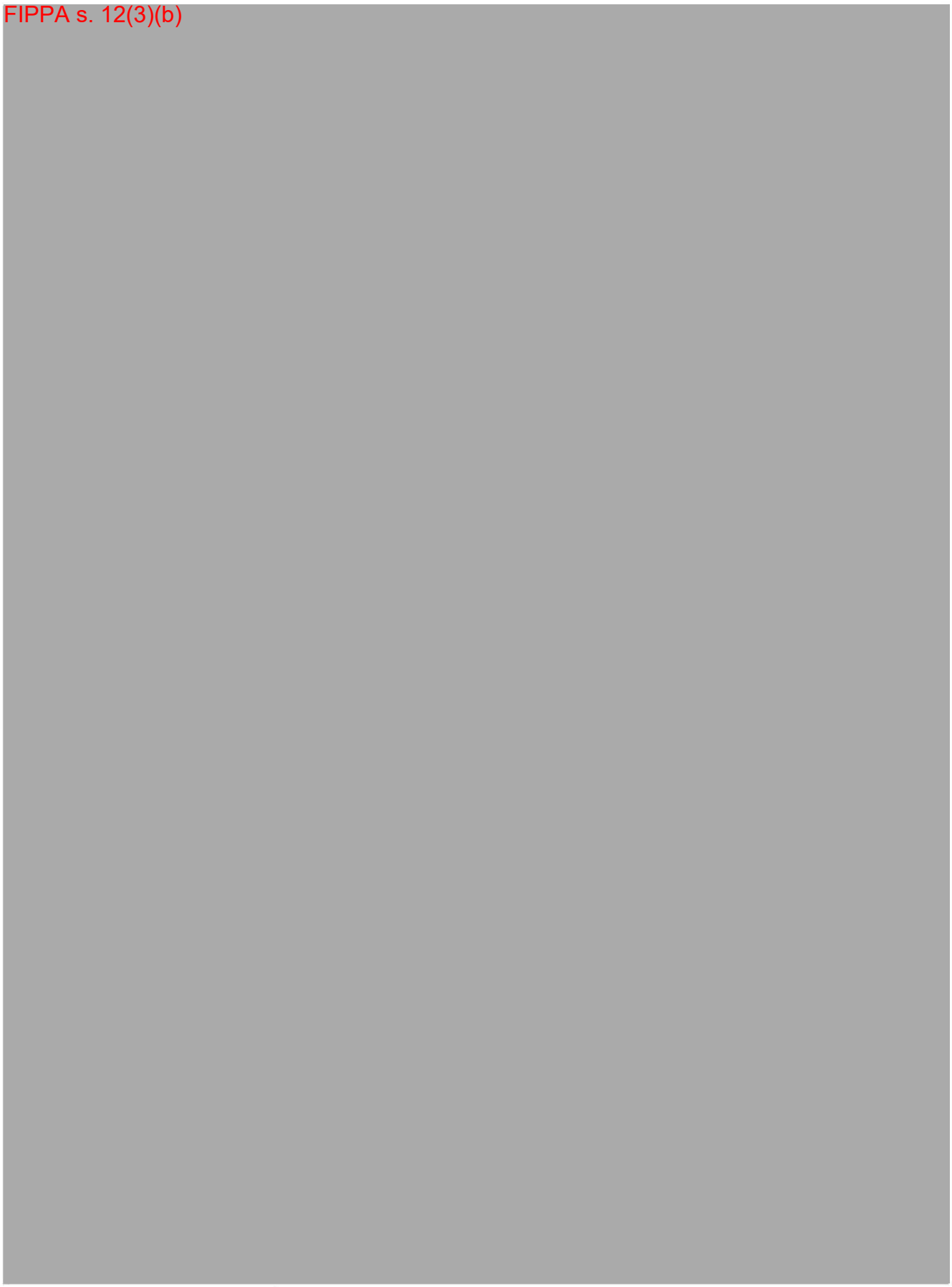
FIPPA s. 12(3)(b)



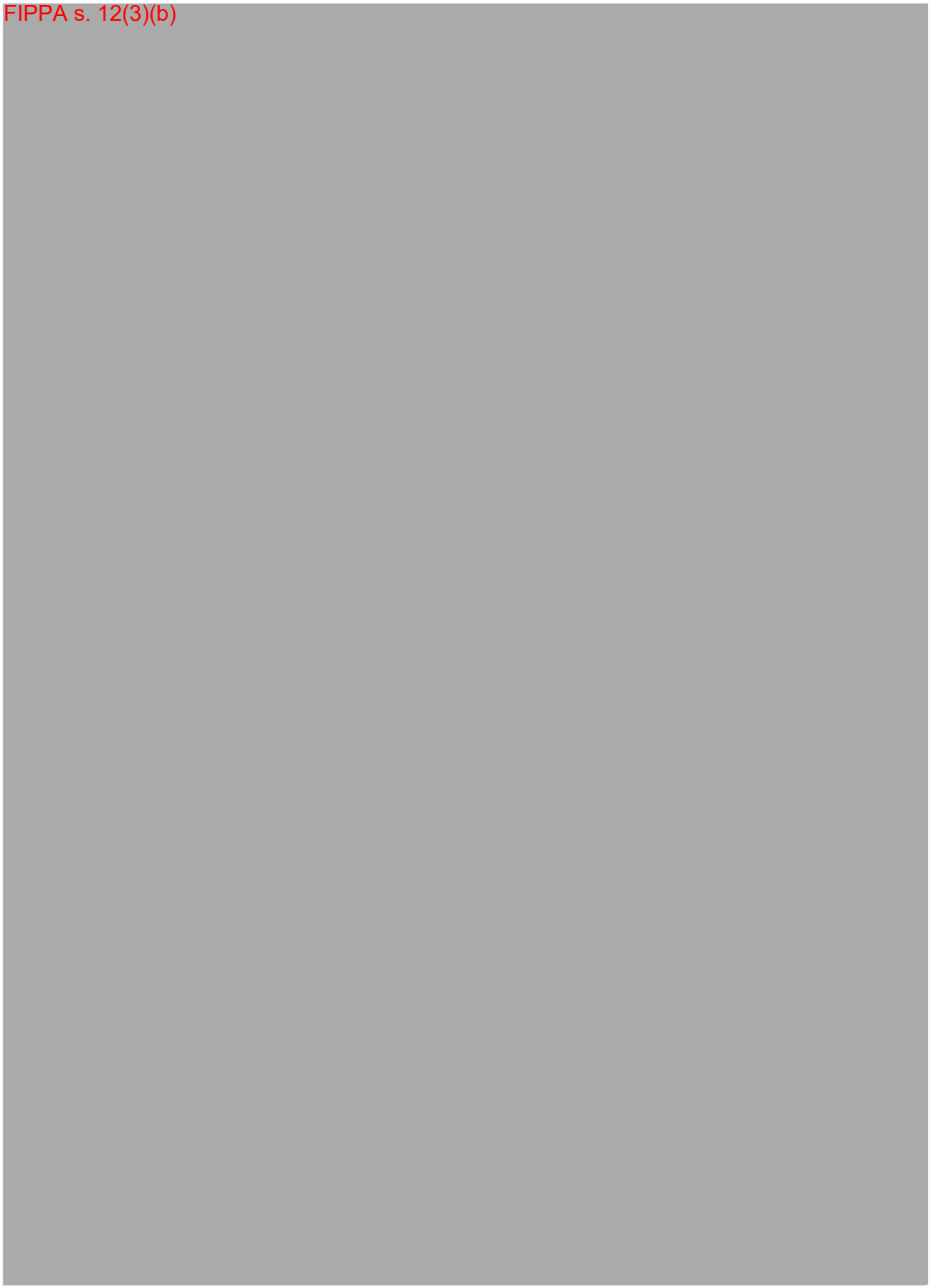
FIPPA s. 12(3)(b)



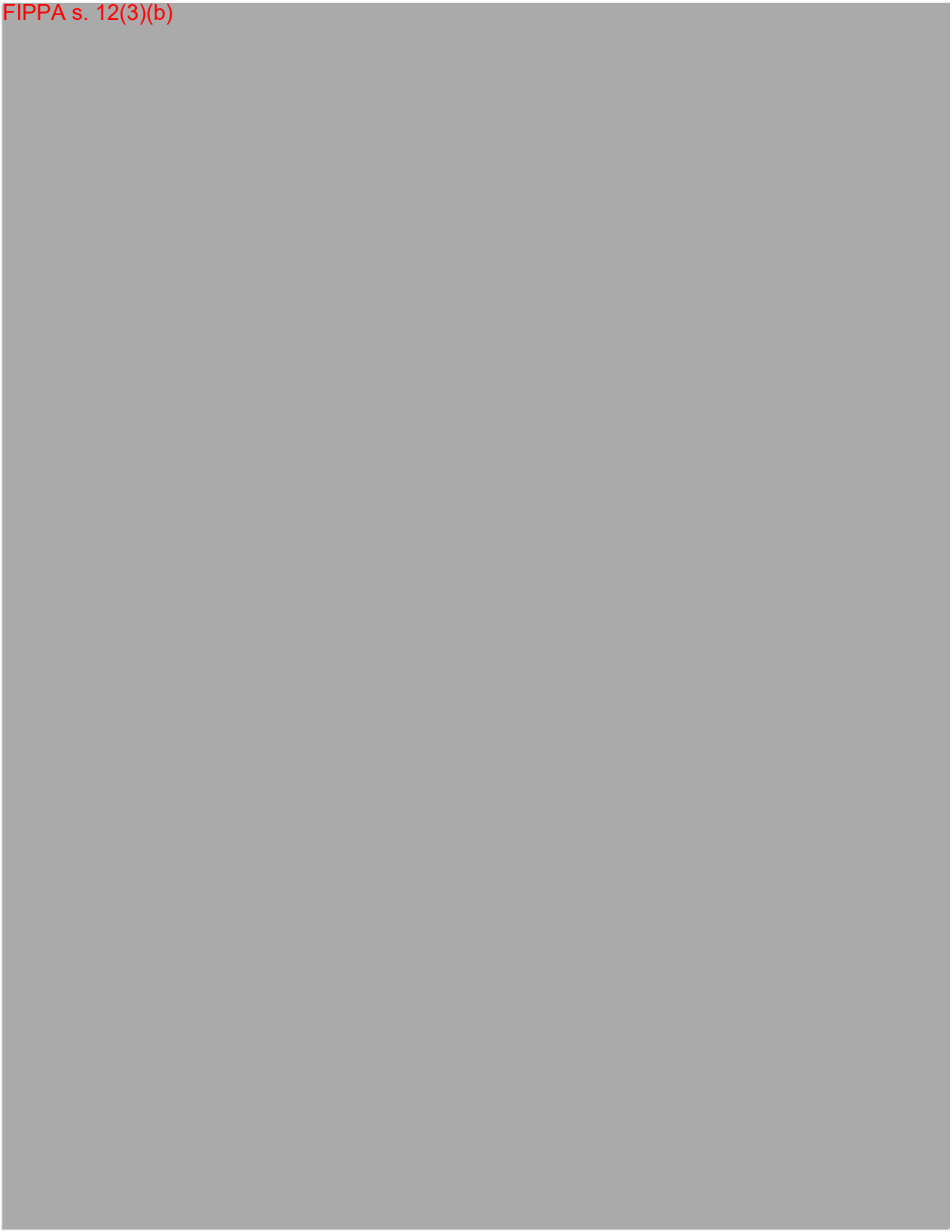
FIPPA s. 12(3)(b)



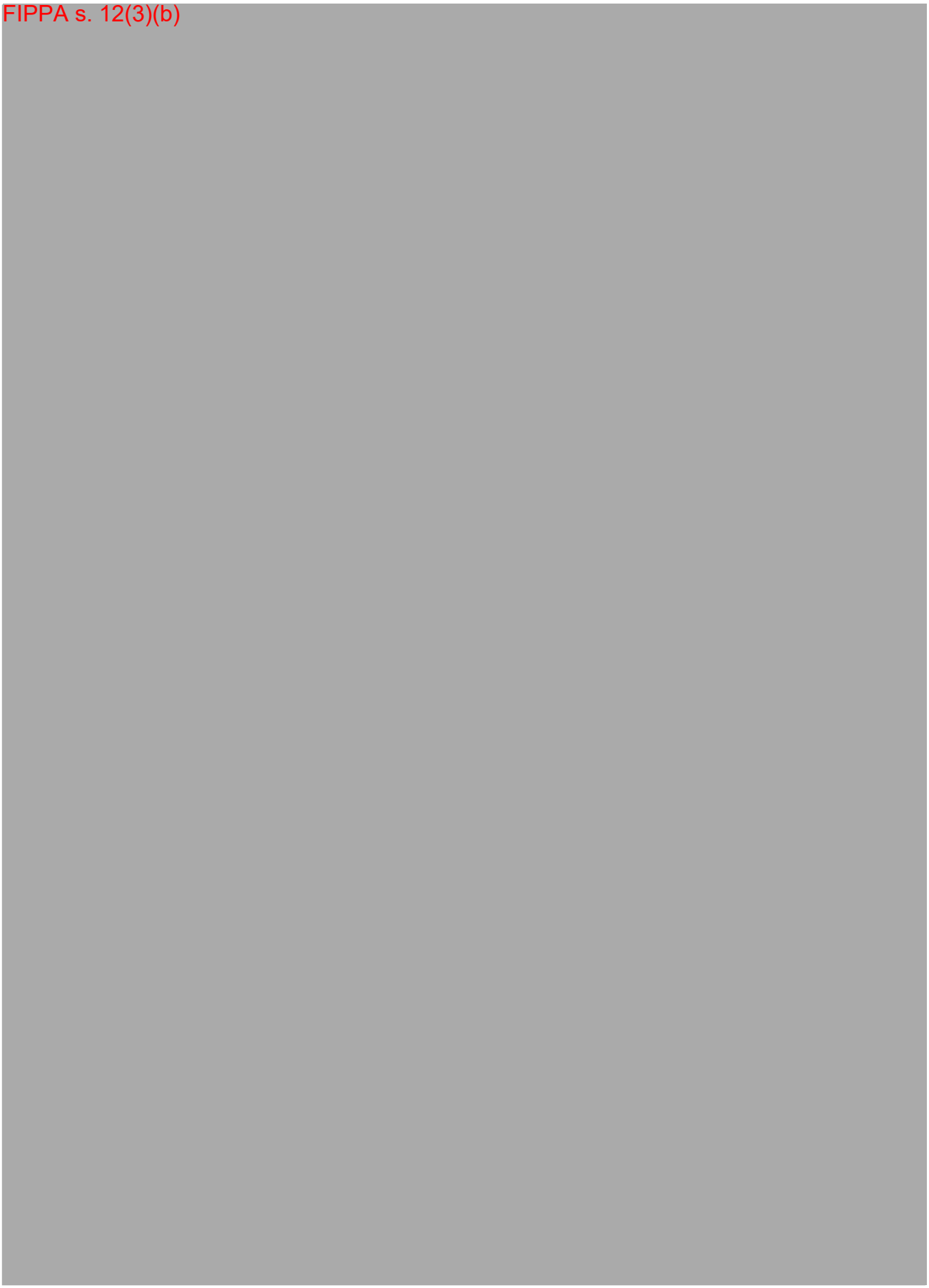
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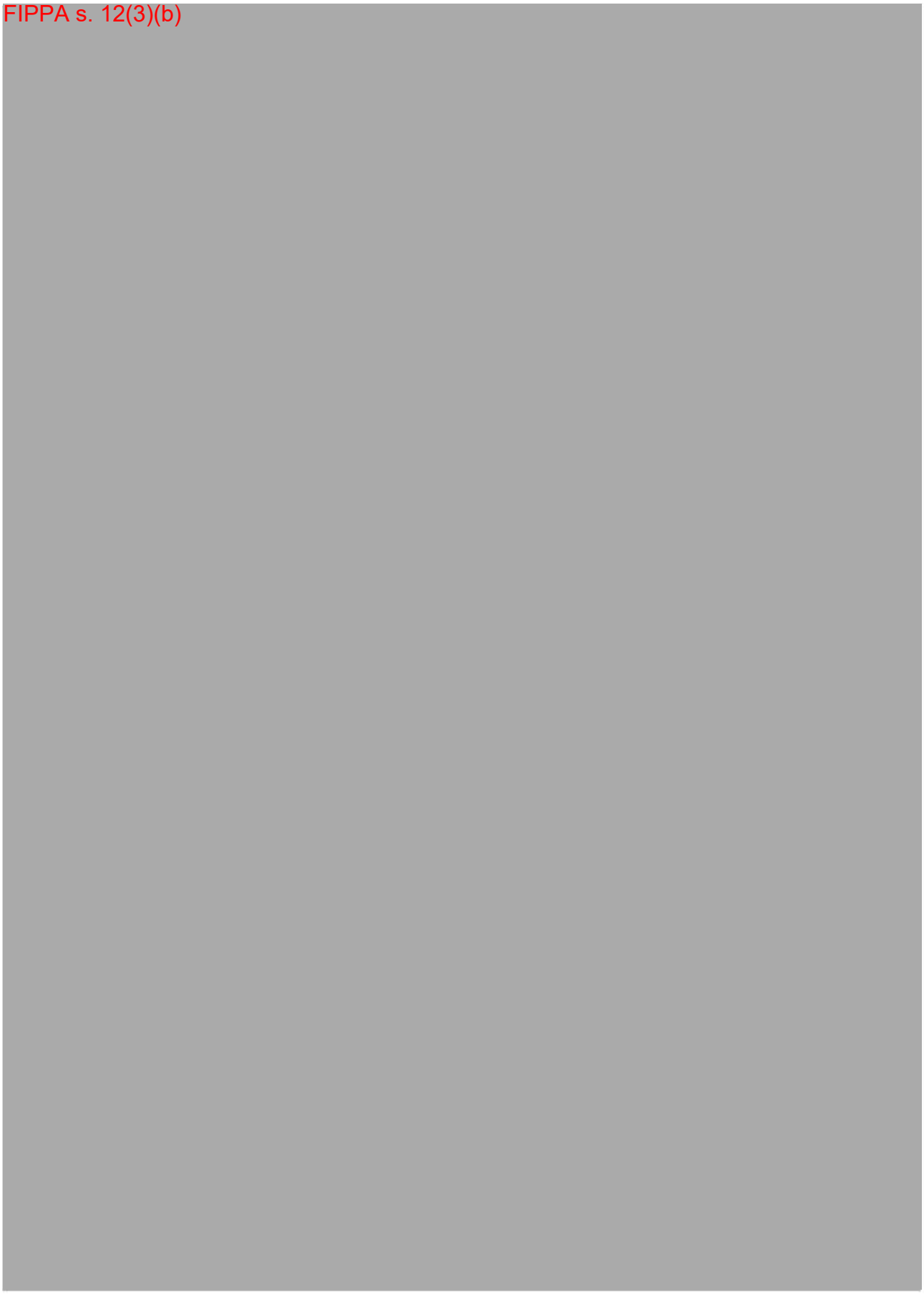
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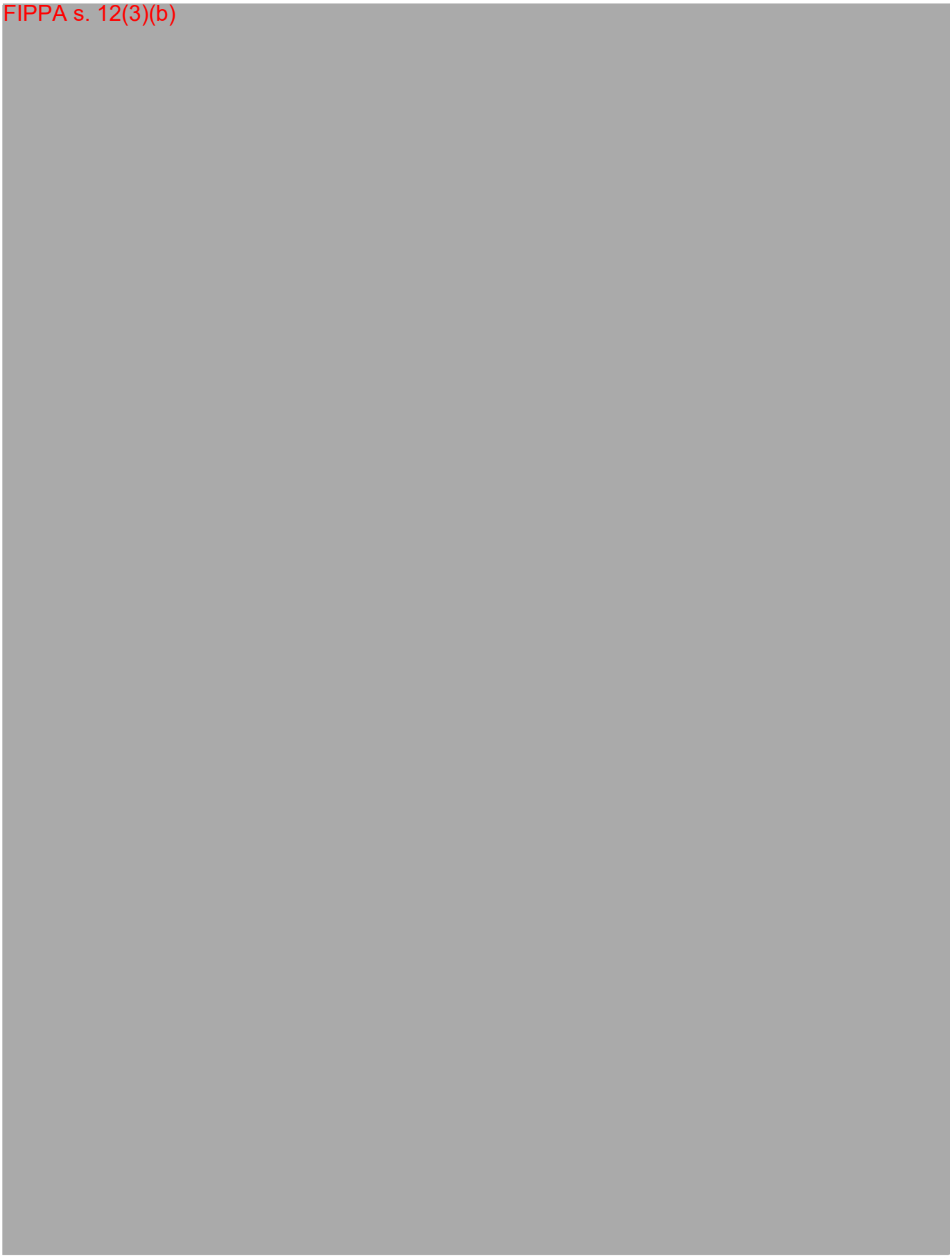
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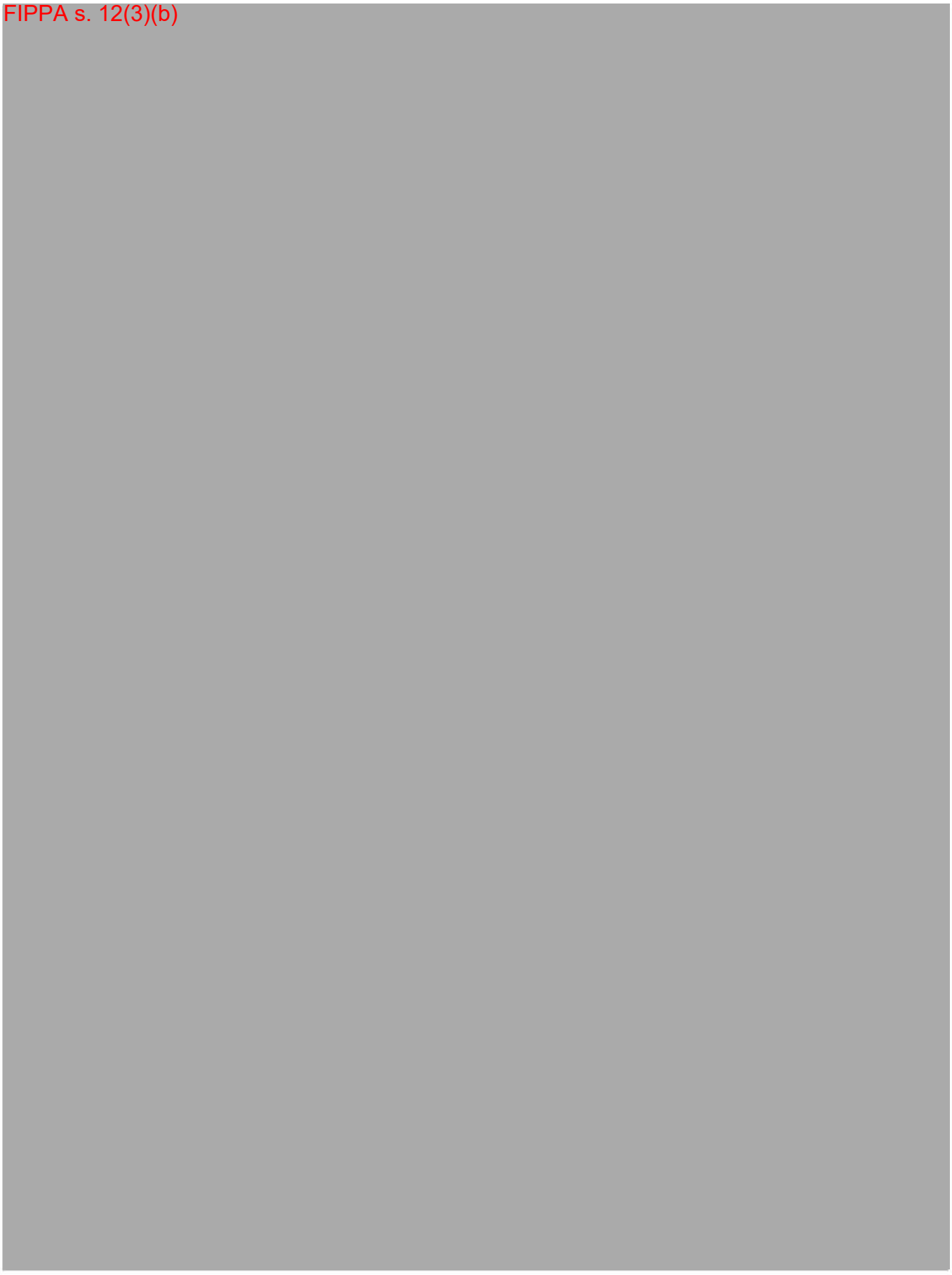
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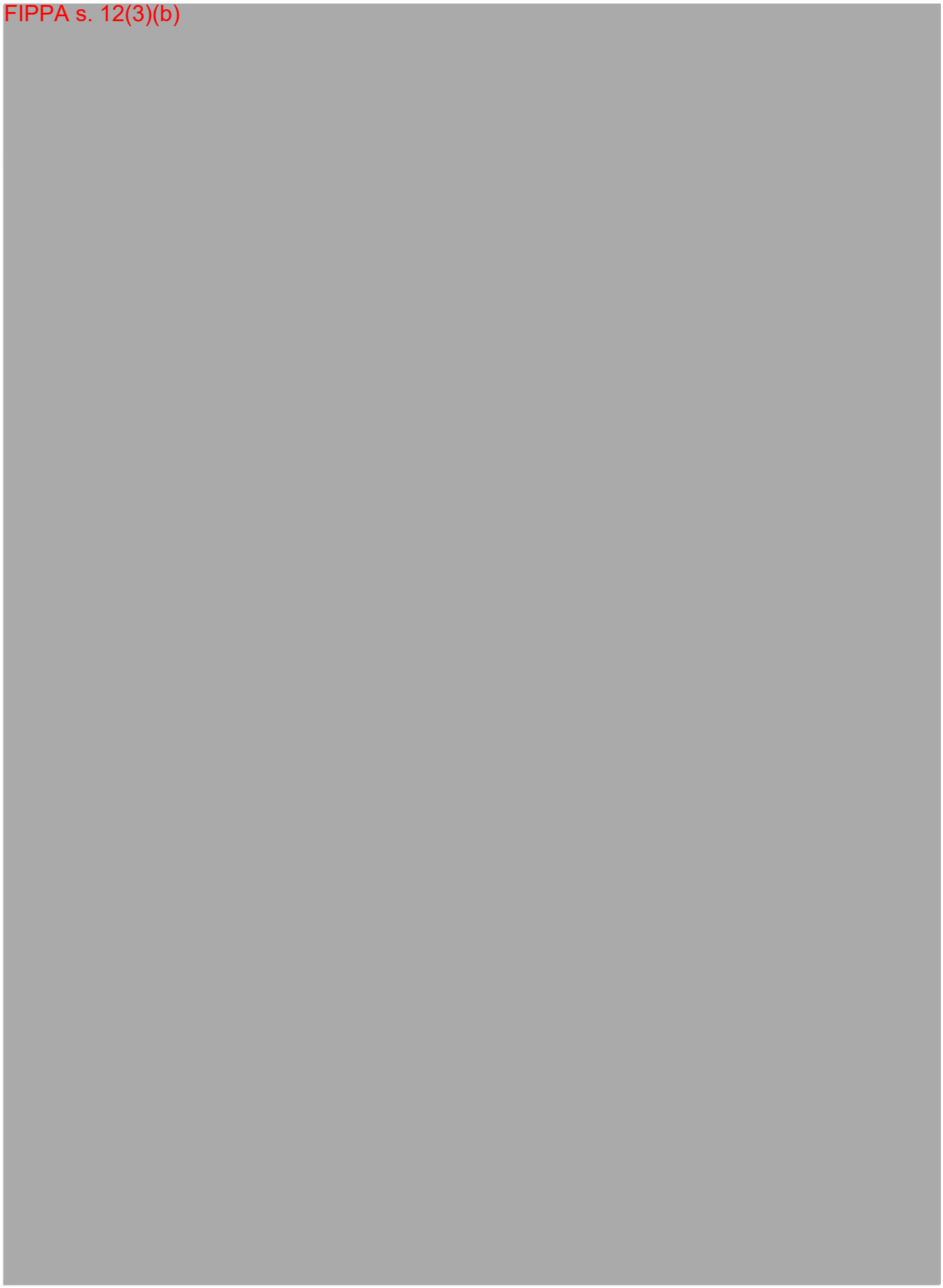
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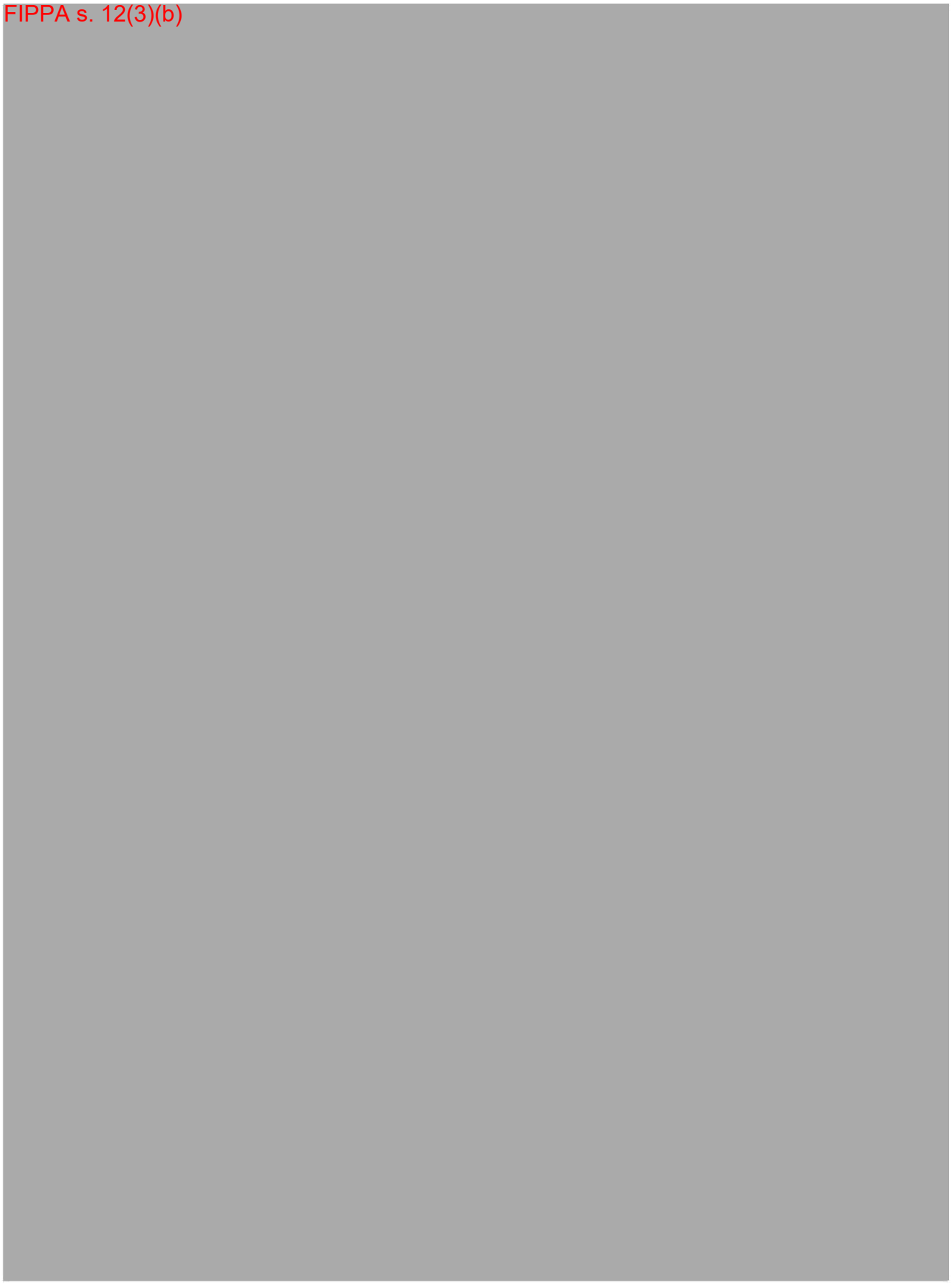
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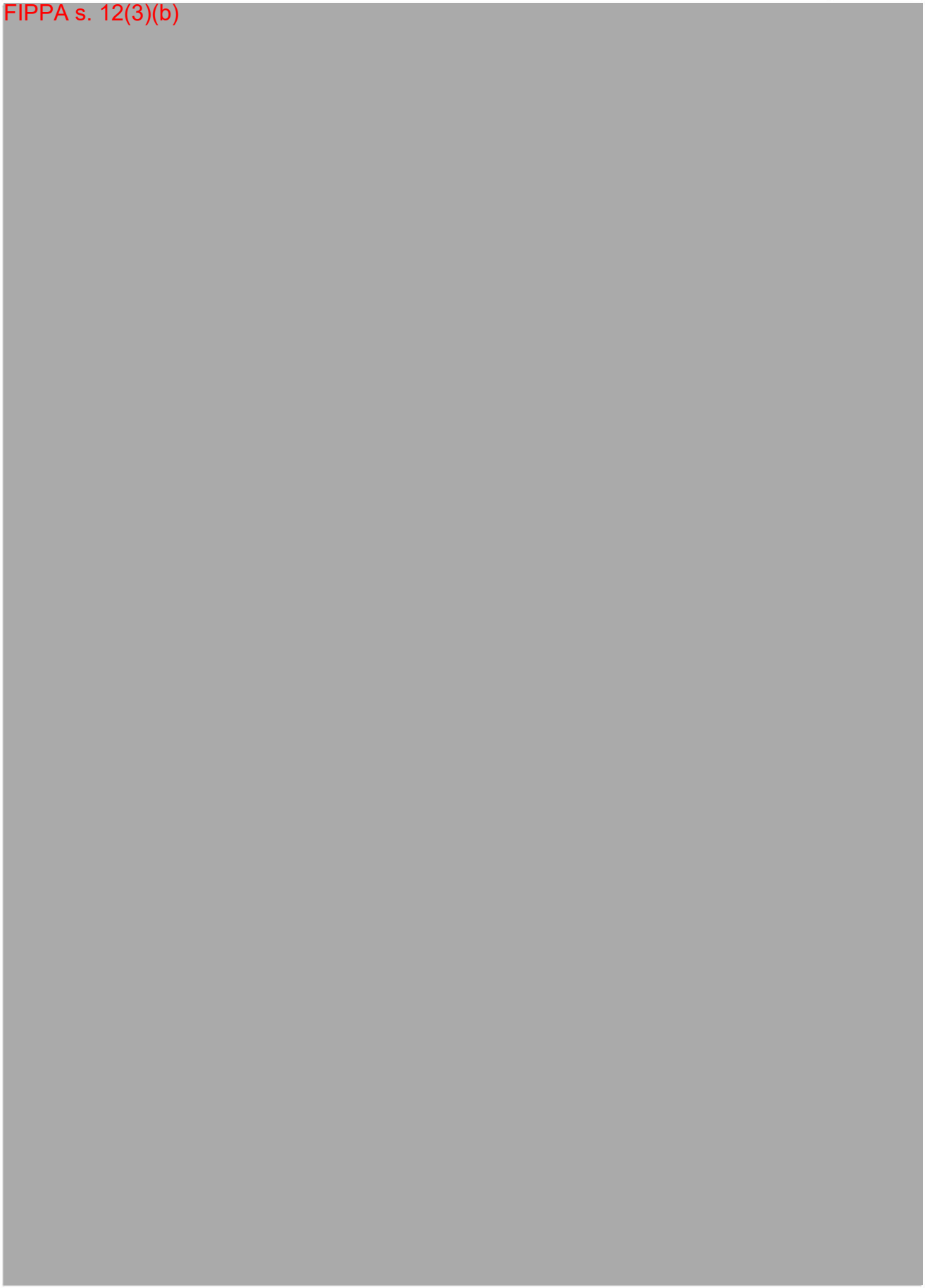
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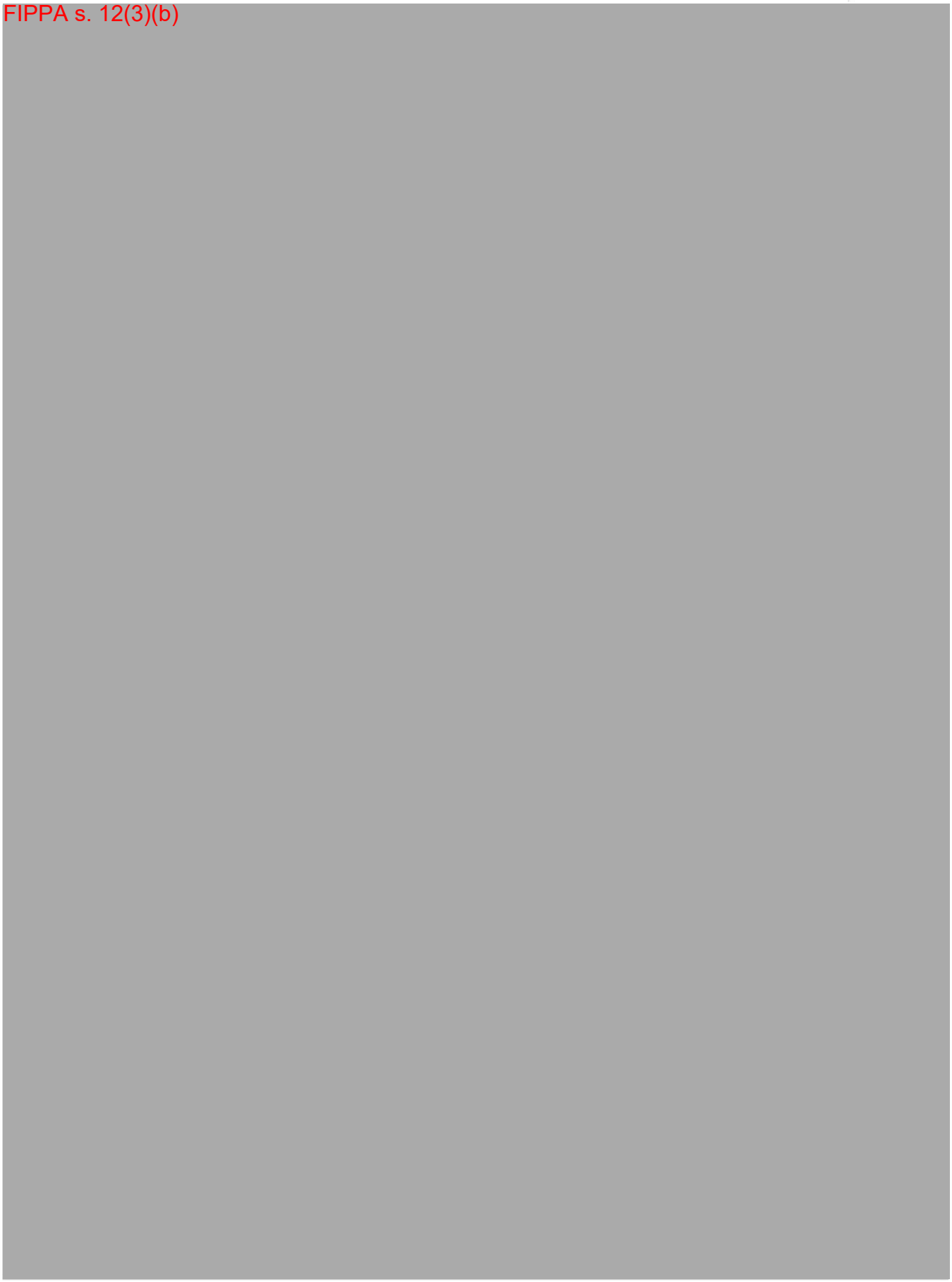
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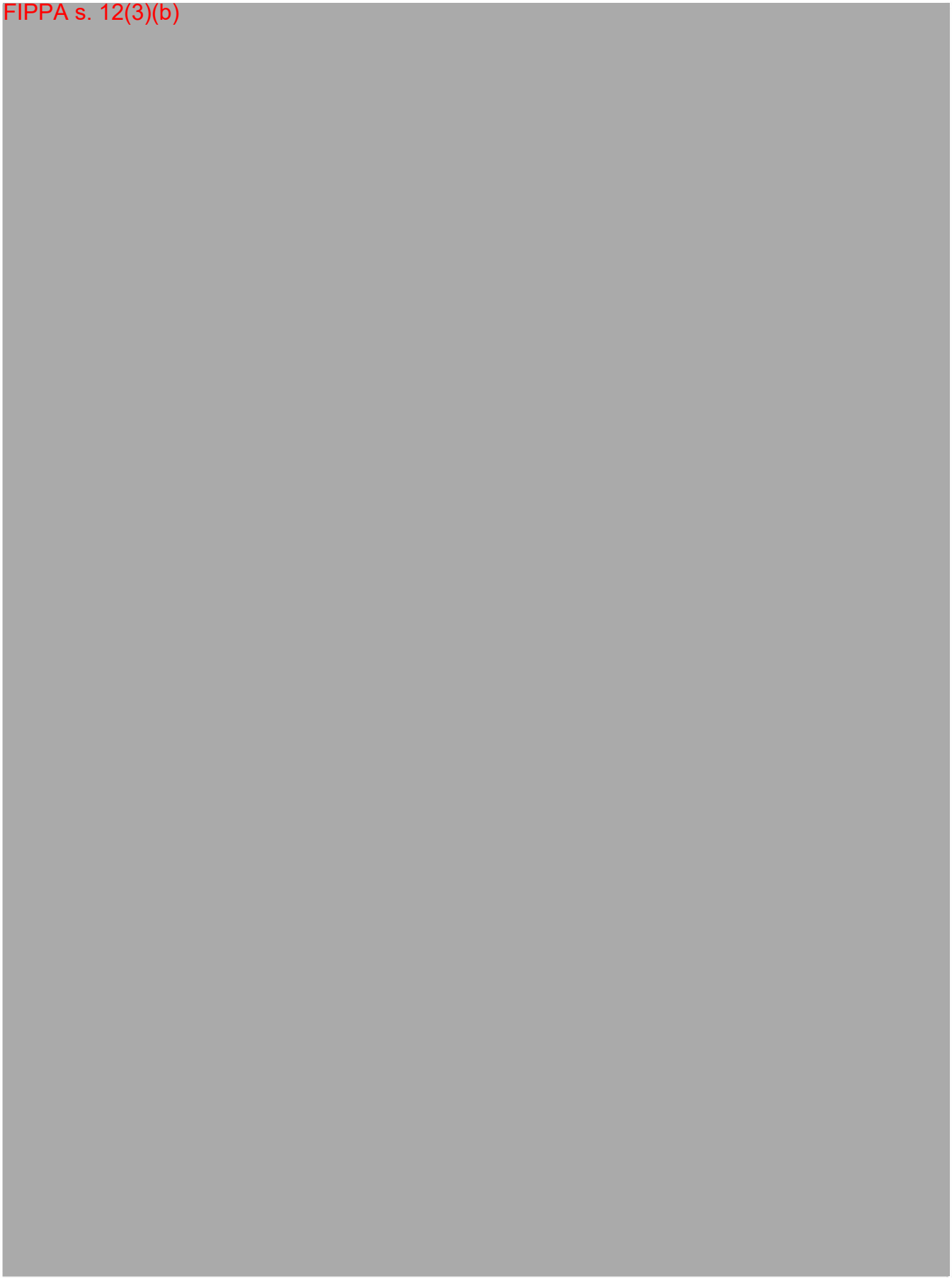
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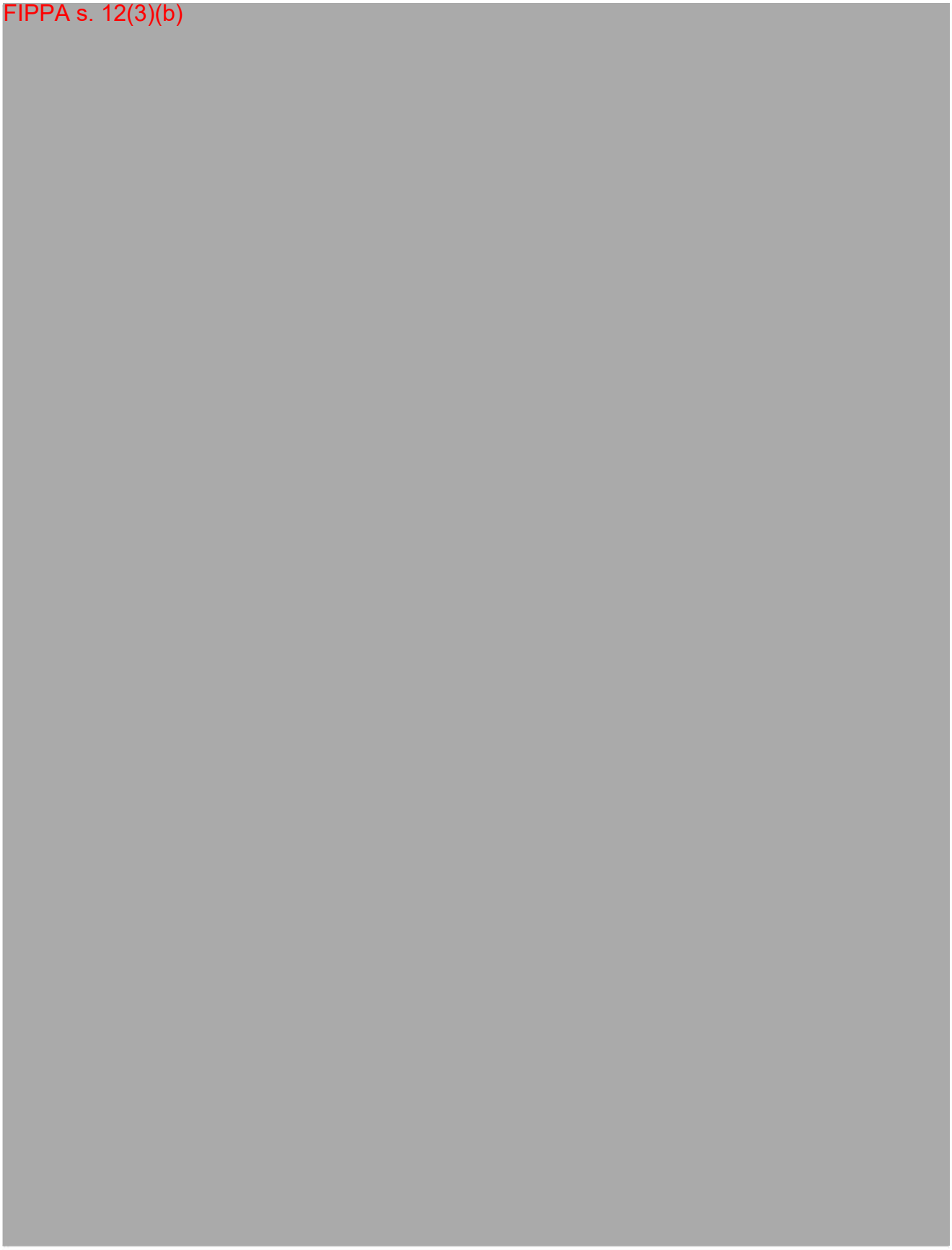
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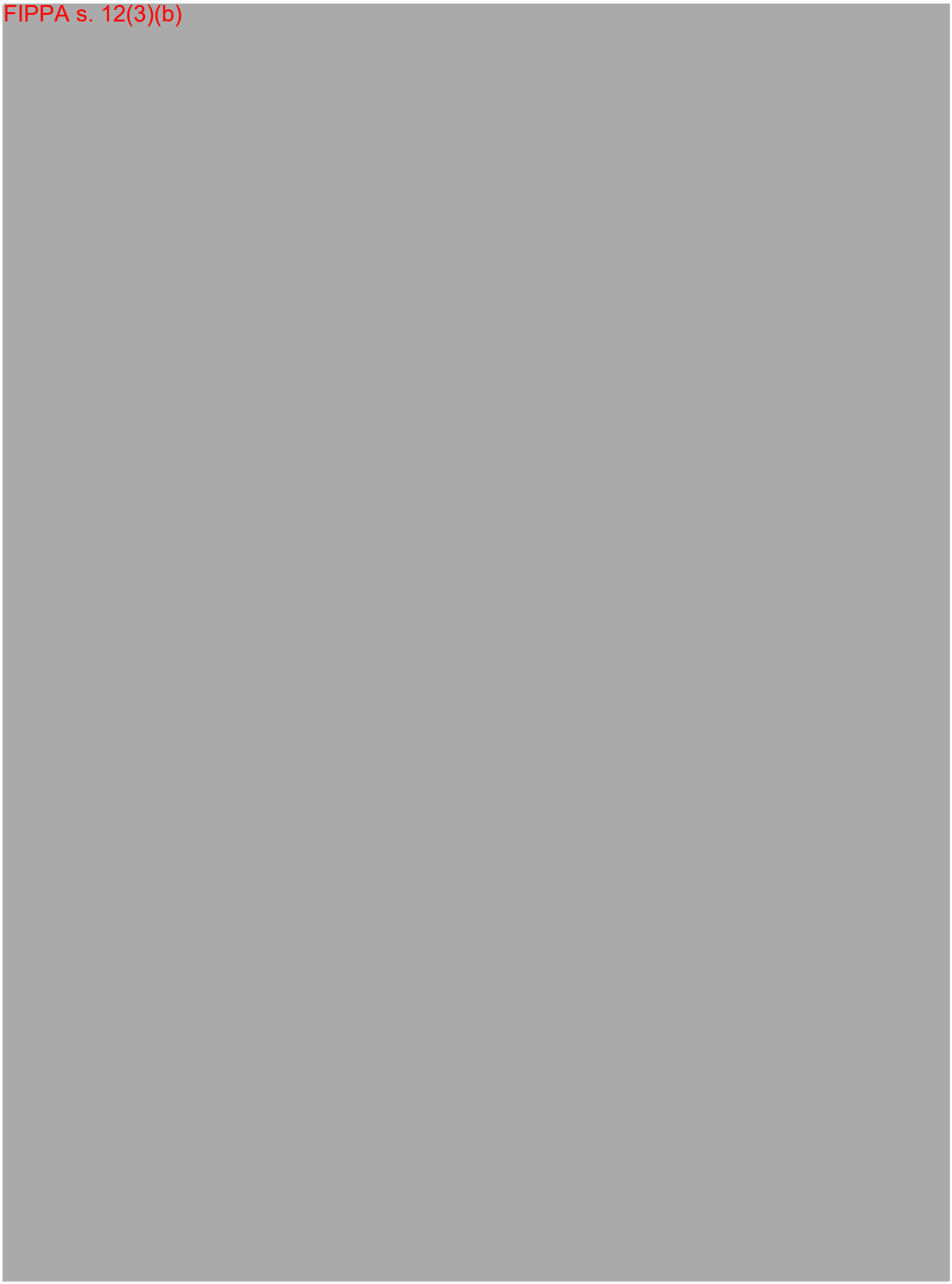
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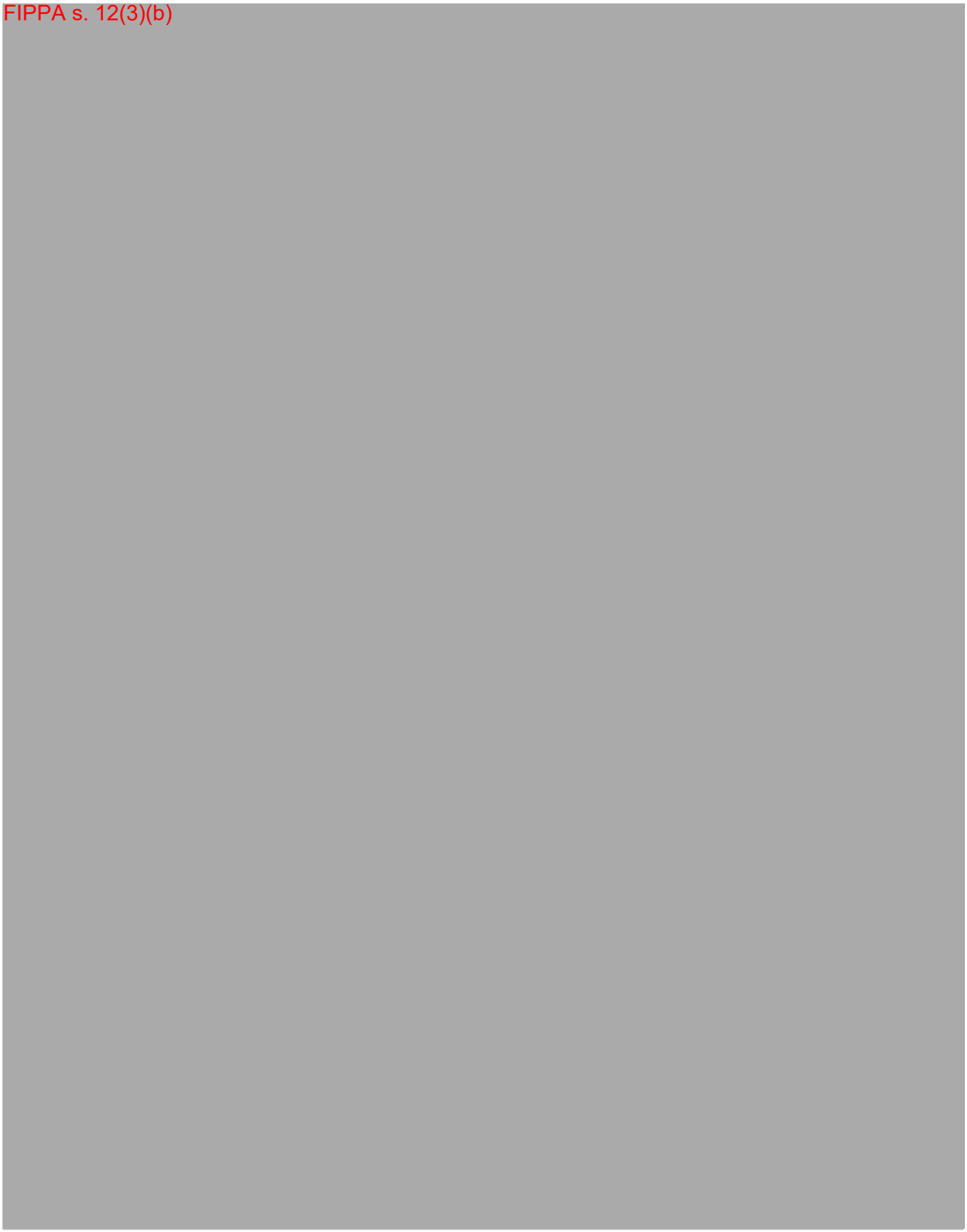
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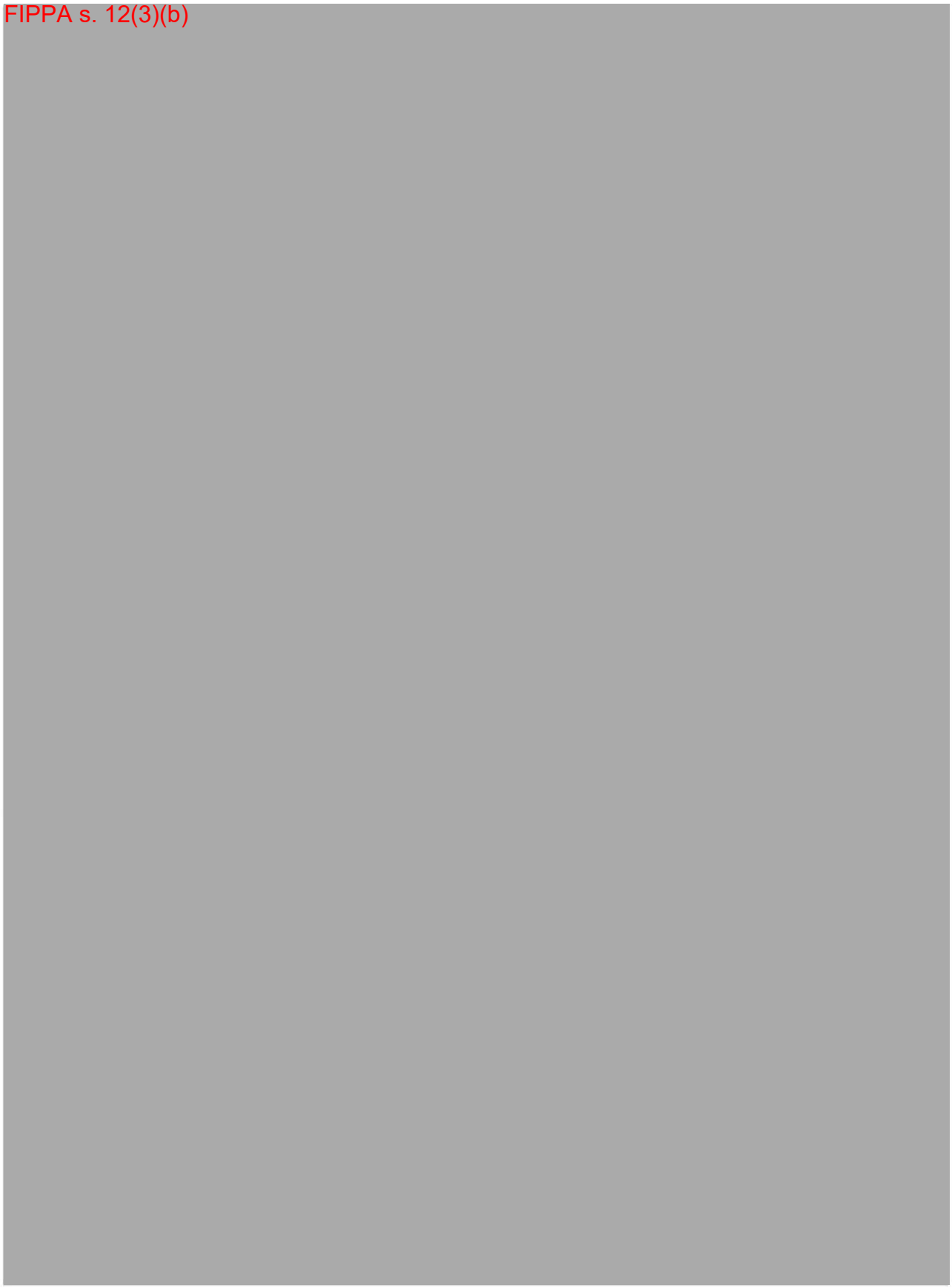
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FIPPA s. 12(3)(b)



FIPPA s. 12(3)(b)



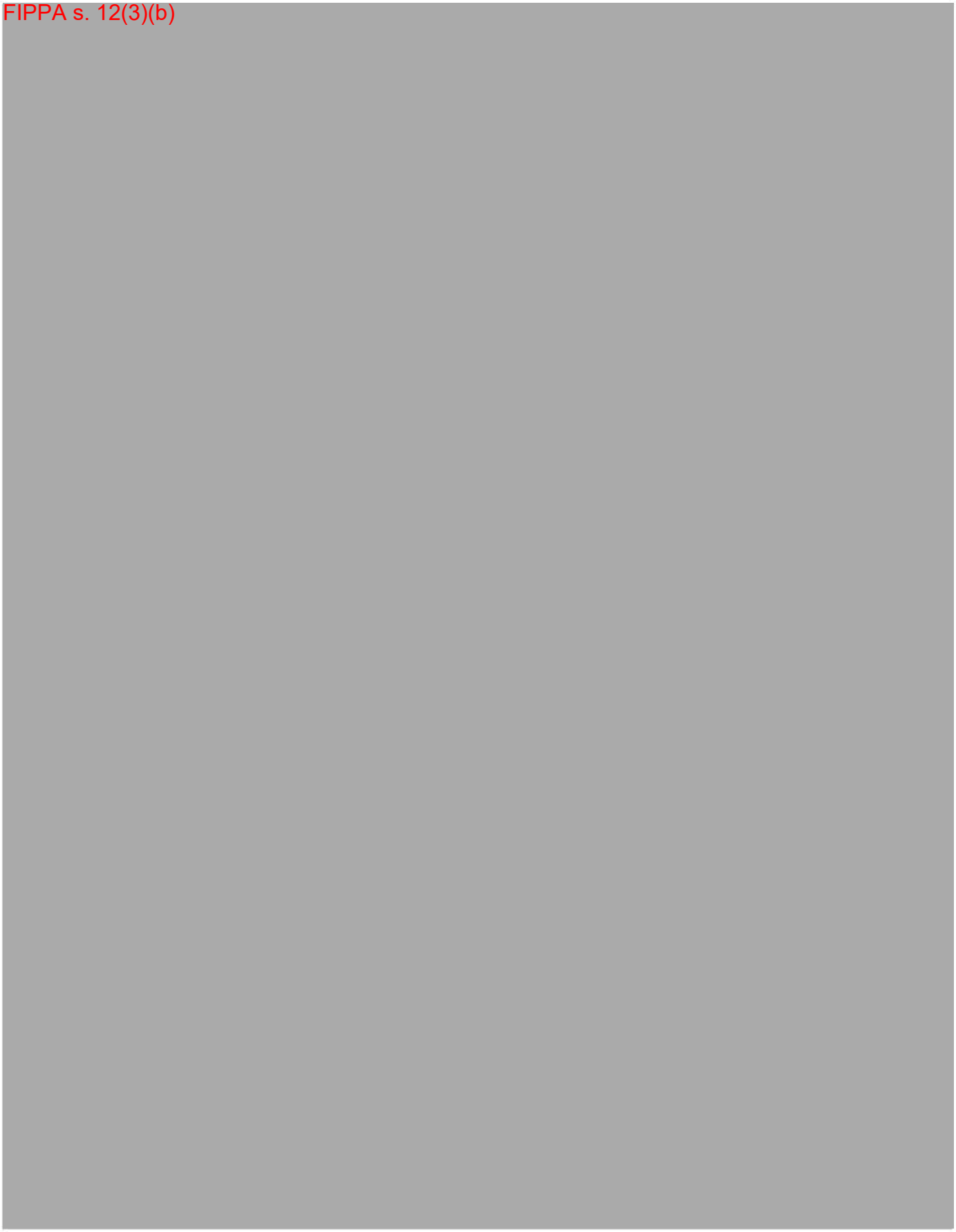
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FIPPA s. 12(3)(b)



FIPPA s. 12(3)(b)



District of Metchosin

Minutes
Special Closed Portion of the Council Meeting
September 17, 2021 at 11:00 a.m.

Council Chambers
Metchosin Municipal Hall

Present: Mayor Ranns, Councillors Kahakauwila, MacKinnon and Epp. Also present was L. Urlacher, CAO and Tina Hansen, Recorder

Via Conference Call: Sherry Hurst, Planner

Regrets: Councillor Little

Closed Portion, Exclusion of the Public

Moved and Seconded by Councillors MacKinnon and Kahakauwila that the public be excluded under section 90 (1) and 90 (2) of the Community Charter in order to consider:
a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
(g) litigation or potential litigation affecting the municipality;
(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
2 (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

Carried

The meeting was called to order at 11:05 a.m.

FIPPA s. 12(3)(b)



2. Business Arising

a) Disposition of Greenspace

Staff provided an overview of the proposed Purchase Agreement with the Capital Regional District (CRD) for Lot A and the Legal Opinion related to the use of proceeds for the sale of land.

Council discussed the following:

- Assurances that Lot A remains greenspace in perpetuity; Section 219 Covenant
- Starting up Mary Hill Steering Committee meetings
- Options provided in Legal Opinion

Action Item: Council directed Staff to investigate options for consideration to proceed with the Disposition of Lot A, ensuring it remains park in perpetuity, to be considered together with the parcels of land referenced in the Reconciliation Agreement with the objective of preserving Mary Hill.

Sherry Hurst left the meeting at 11:35 a.m.

FIPPA s. 12(3)(b)



FIPPA s. 12(3)(b)

[redacted]

7. Adjournment

Moved and Seconded by Councillors Kahakauwila and Epp to adjourn the closed portion of the Special Council meeting at 1:08 p.m.

Carried

Certified Correct:

Mayor

Corporate Officer

District of Metchosin

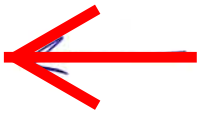
Special Closed Portion Agenda

Special Council Meeting
October 7, 2021 at 10:00 a.m.
Council Chambers

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1. **Agenda, Additions and Approval**

2. **Business Arising**
   a) Disposition of Greenspace



3. **Adjournment**

Lisa Urlacher

From: Stephen Henderson <shenderson@crd.bc.ca>
Sent: October 4, 2021 1:56 PM
To: Lisa Urlacher
Subject: CRD - Metchosin - Land Acquisition - Lot A from District of Metchosin
Attachments: Purchase Agreement - Metchosin Greenspace Lands (LL Draft 10.04.21).DOCX; Blackline - Metchosin - Purchase Agreement (CRD Draft - LL Draft).PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Lisa,
Please find a revised Purchase Agreement attached. This has been prepared by Lawson Lundell in a revised form. I have attached both a Track Changes MS Word Document, and a Blackline version in PDF.

Please have it reviewed, and if in agreement we can execute and return.

The revised Condition Removal Date is November 1st.
Closing remains on November 24th.

Looking forward to progressing on this.

Stephen Henderson,
Manager of Real Estate Services

Corporate Services - **Capital Regional District**
625 Fisgard Street, Victoria, BC, Canada V8W 1R7
C: 250.516-3926 T: 250.360.3136 | E: shenderson@crd.bc.ca
www.crd.bc.ca | Facebook | Twitter | YouTube

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PURCHASE AGREEMENT

THIS AGREEMENT is dated for reference ~~this~~ ____ ~~day~~ ____ ~~of~~ October ____, 2021.

BETWEEN:

DISTRICT OF METCHOSIN
4450 Happy Valley Road
~~Victoria~~, Victoria, BC, V9C 3Z3

(the ~~"Vendors"~~"**Vendor**")

~~OF THE FIRST PART~~

AND:

CAPITAL REGIONAL DISTRICT
625 Fisgard Street, Victoria, BC, V8W 2S7

(the ~~"~~"**Purchaser**"~~"~~)

~~OF THE SECOND PART~~

~~WHEREAS:~~
WHEREAS:

A. The ~~Vendors are~~Vendor is the sole registered ~~owners~~, legal and beneficial owner of the Property~~;~~ (defined below).

B. The ~~Vendors have~~Vendor has agreed to sell and the Purchaser has agreed to purchase all of the ~~Vendors~~Vendor's right, title, and interest in the Property, on the terms and conditions set out in this Agreement.

C. The parties intend that the purchase and sale of the Property will be the first in a series of transactions whereby the Purchaser will acquire the following additional lands from the Vendor:

Parcel Identifier: 010-974 385
SECTION 95 METCHOSIN EXEMPT MUNICIPAL ACT SEC 398-A; and

Parcel 001-713 582
SECTION 28 METCHOSIN EXEMPT MUNICIPAL ACT SEC 398-A,

subject to, among other things, the parties agreeing on the terms and conditions of such further transactions.

D. The Purchaser anticipates that the Property and the additional lands referred to above will form part of a larger multi-use recreational area, owned and managed by the Purchaser, that encourages mountain biking, equestrian activities, and hiking.

NOW THEREFORE in consideration of the Purchase Price~~,~~ (defined below) and mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the parties), the parties agree as follows:

1.0 DEFINITIONS

1.1 In this Agreement the following terms shall have the following meanings:

~~"~~**Agreement**~~"~~ means this Purchase Agreement, including its Schedules.

~~"~~**Closing Date**~~"~~ means November 24, 2021, or such other date as may be agreed to by the parties in writing.

~~"~~**Contaminants**~~"~~ means any explosives, radioactive materials, asbestos materials, urea formaldehyde, chlorobyphenols, hydrocarbon contaminates, underground or above ground tanks, pollutants, contaminants, hazards, corrosive or toxic substances, special waste, hazardous waste or waste of any kind or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws.

~~"~~**Deposit**~~"~~ means the sum of $10,000.00.

~~"~~**Environmental Laws**~~"~~ means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Property, now or hereafter in force with respect in any way to the environment, health or occupational health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time and the principles of common law and equity.

Property~~"~~ means the ~~land~~lands and premises situate in British Columbia, legally described as:

> ~~PID~~Parcel Identifier: 030-095-875
> LOT A SECTIONS 93 94 96 AND 108 METCHOSIN DISTRICT PLAN EPP69605

~~"~~**Permitted Encumbrances**~~"~~ means all exceptions, reservations, legal notations, liens, charges, and encumbrances as shown on Schedule ~~"~~A~~"~~.

~~"~~**Purchase Price**~~"~~ means the sum of Two Hundred and Seventy Four Thousand and Four Hundred Dollars ($274,400.00).~~"~~

~~**Purchaser's Solicitor**~~

"**Purchaser's Solicitors**" means Lawson Lundell LLP, or any other firm of solicitors appointed from time to time by the Purchaser as the Purchaser's solicitors for the purposes of this Agreement.

"**Vendor's Solicitors**" means Stewart McDannold Stuart, or any other firm of solicitors appointed from time to time by the Vendor as the Vendor's solicitors for the purposes of this Agreement.

2.0 PURCHASE AND SALE

2.1 The Purchaser agrees to purchase from the ~~Vendors~~Vendor, and the ~~Vendors agree~~Vendor agrees to sell to the Purchaser, for the Purchase Price and otherwise on the terms and conditions contained in this Agreement, ~~a~~ good and marketable freehold title to the Property, free and clear of all liens, charges and encumbrances, except for the Permitted Encumbrances.

2.2 ~~The~~ **Purchase Price**

The Purchase Price payable by the Purchaser to the ~~Vendors~~Vendor for the Property shall be subject to the adjustments described in Article 2.4 and shall be exclusive of GST. ~~Any and all other costs (including GST), duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind (other than income taxes and other amounts payable pursuant to the *Income Tax Act* or any similar statute of any province or territory of Canada) that are payable as a consequence of the purchase of the Property pursuant to this Agreement are the sole responsibility of, and are for the account of, the Purchaser.~~

The Purchaser will pay the Purchase Price to the ~~Vendors~~Vendor as follows:

(a) as to the Deposit, by payment to Purchaser's ~~Solicitor~~Solicitors, in trust, within 5 days of the satisfaction or if applicable, waiver of the conditions in sections 5.1 and 5.2 by cheque, bank draft, ~~cash~~wire transfer, or solicitor's or notary's trust cheque; and

(b) ~~as to~~ the balance of ~~Two Hundred and Sixty Four Thousand and Four Hundred Dollars ($264,400) by payment to the Vendors' solicitor~~the Purchase Price, subject to the adjustments provided for in this Agreement, will be paid on ~~or before~~ the Closing Date in accordance with ~~Article~~article 7.0.

2.3 Application of ~~Deposits~~Deposit

(a) The ~~Deposits~~Deposit will be paid to the ~~Vendors~~Vendor:

(i) on the Closing Date on account of the Purchase Price, if the ~~Vendors~~Vendor and the Purchaser complete the sale and purchase of the Property on the Closing Date; or

(ii) ~~upon the default of the Purchaser,~~ if the Purchaser ~~is in default under~~fails to complete the sale and purchase of the Property in accordance with this Agreement~~, unless such~~ (other than as a result of a default ~~is waived in writing by the Vendors and the Deposit so paid to the Vendors will be in~~

~~complete satisfaction~~of the Vendor or as permitted under this Agreement), as liquidated damages as a genuine pre-estimate of the Vendor's damages for full and final settlement of any claim ~~arising~~which the Vendor may have against the Purchaser~~; or~~

~~(b) The Deposits~~, which the Vendor agrees will be its only remedy for such default; or

(b) the Deposit will be returned to the Purchaser:

(i) if all of the conditions precedent in sections 5.1 and 5.2 are not declared satisfied or waived by the applicable parties in accordance with this Agreement; or

(ii) ~~(i) upon the default of the Vendors and the Deposits so returned to the Purchaser will be without prejudice to any other right or remedy of the Purchaser, if the Vendors are in default of its obligation to complete the sale of the Purchased Property hereunder, unless such default is waived in writing by the Purchaser or~~if the Purchaser ~~has elected~~elects not to complete the purchase of the ~~Purchased~~ Property in accordance with section 7.11; or

(iii) if the Vendor fails to complete the sale of the Property in accordance with this Agreement (other than as a result of a default of the Purchaser or as permitted under this Agreement), without prejudice to any other right or remedy of the Purchaser.

2.4 Adjustments

The ~~Vendors~~Vendor and Purchaser will make all adjustments to and including the Closing Date with respect to taxes, utilities, rents, and all other items normally adjusted between a vendor and purchaser on the sale of similar property.

3.0 REPRESENTATIONS AND WARRANTIES

3.1 Purchaser's Representations and Warranties

The Purchaser represents and warrants to the Vendor the Purchaser has full power, authority (subject to satisfaction of the Purchaser's condition at section 5.1(j)) and capacity to enter into this Agreement and carry out the transactions contemplated herein.

3.2 Vendor's Representations and Warranties

The Vendor represents and warrants to the Purchaser that as of the date of this Agreement and the Closing Date:

(a) the Vendor has full power, authority (subject to satisfaction of the Vendor's condition at section 5.2(b)) and capacity to enter into this Agreement and carry out the transactions contemplated herein;

(b) ~~(a)~~ the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and

(c) ~~(b)~~ the Vendor is the sole registered, legal and beneficial owner of the Property, and has good and marketable title to the Property free and clear of all liens, charges, and encumbrances except for the Permitted Encumbrances.

3.3 Survival of ~~Vendors~~Vendor's Representations and Warranties

The representations and warranties contained in section ~~3.1~~3.2 shall survive the Closing Date and shall continue in full force and effect for the benefit of the Purchaser ~~2 years after the Closing Date~~, notwithstanding any independent inquiry or investigation by the Purchaser ~~or the waiver by the Purchaser of any condition set out in article 3.0~~, the subject matter of which is contained in a representation or warranty ~~in this Agreement~~herein, or the waiver by the Purchaser of any condition set out in section 5.1.

4.0 COVENANTS

4.1 ~~Vendors~~Vendor's Covenants

The Vendor covenants with the Purchaser to:

(a) permit the Purchaser and its representatives to enter onto the Property and carry out such inspections, assessments, tests, studies, appraisals, surveys and investigations of the Property as the Purchaser may reasonably require;

(b) ~~cause the Property to be maintained as may be required before the Closing Date in the manner of a prudent owner~~within 5 business days following the execution and delivery of this Agreement by both parties, deliver to the Purchaser all material and relevant documents and information that the Vendor has in its possession or control pertaining to the Property that a sophisticated potential owner of the Property would consider necessary or relevant to enable a thorough understanding of all aspects of the Property;

(c) until the Closing Date, maintain and repair the Property in its present condition, reasonable wear and tear excepted, and to operate the Property as a careful and prudent owner would do;

(d) observe and perform all of its obligations under the Permitted Encumbrances as would a prudent owner;

(e) maintain all existing insurance coverage in respect of the Property in full force and effect up to and including the Closing Date;

(f) ~~(c)~~ not enter into or amend any contract with respect to the Property before the Closing Date, without consent of the Purchaser, which may be withheld in the Purchaser's sole discretion; and

(g) forthwith notify the Purchaser if it becomes aware that any of its representations or warranties have become untrue or incorrect in any material respect.

4.2 Purchaser's Covenant

The Purchaser covenants and agrees with the Vendor that:

(a) subject to and without limiting any of the express representations and warranties of the Vendor under this Agreement, the Purchaser is purchasing the Property on an "as is where is" basis and, without limiting the generality of the foregoing, the Purchaser has and hereafter will continue to use its own due diligence, resources and independent investigations to satisfy itself on every aspect, thing and matter relating to or in connection with the Property and ~~neighboring~~neighbouring properties including, but not limited to zoning, land use planning, current and past uses of the Property and neighboring properties, existence of Contaminants and compliance with Environmental Laws; and

(b) the Purchaser will manage the Property as a Regional Park, as defined in the Local Government Act, as part of the Purchaser's Regional Park system, in accordance with the Park Use Covenant (as defined below). This covenant is not a condition subsequent to this agreement and shall not fetter the legislative discretion of the Board of the ~~Capital Regional District~~Purchaser.

5.0 CONDITIONS

5.1 Purchaser's Conditions

The obligation of the Purchaser to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being ~~in effect or~~declared satisfied or waived in writing by the Purchaser on or before ~~October~~November 1, 2021:

(a) the ~~Vendors deliver~~Vendor delivering to the Purchaser, and the Purchaser being satisfied with, a site disclosure statement in accordance with the *Environmental Management Act* and ~~*Regulations*~~*Contaminated Sites Regulation;*

(b) the Purchaser ~~is~~being satisified with the results of all due diligence conducted by the Purchaser relating to the land acquisition;

(c) the Purchaser ~~is~~being satisified with the results of an environmental site assessment of the Property to be conducted by the Purchaser;

(d) the Purchaser ~~is~~being satisfied with a site inspection of the Property;

(e) the Purchaser ~~is~~being satisfied with the survey of the Property, prepared by a BC Land Surveyor, at the Purchaser's cost.

(f) the Purchaser ~~is~~being satisfied with the review of title and that all Permitted Encumbrances are consistent with the Purchaser's intended use;

(g) the Purchaser ~~is~~being satisfied with the terms of access across, or alternative access around, the provincial Crown land (SECTION 95, METCHOSIN DISTRICT, PID 010 974 385);

(h) the Purchaser ~~is~~being satisfied with the potential alignment of recreational trails to access and cross the lands legally described as Lot D SECTIONS 93 94 96 AND 108 METCHOSIN DISTRICT PLAN EPP6960, PID 030 095 905)~~.~~;

(i) the Purchaser being satisfied with the terms and conditions of a park use covenant (the "**Park Use Covenant**") to be registered as a section 219 covenant against title to the Property prior to the Closing Date by and in favour of the Vendor; and

(j) ~~(i)~~ approval of the Board of the Capital Regional District, in its sole discretion, of the purchase of the Property on the terms and conditions set out in this Agreement.

5.2 Vendor's Conditions

The obligation of the Vendor to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being ~~in effect or~~declared satisfied or waived in writing by the Vendor on or before ~~October~~November 1, 2021:

(a) notice of disposition of the Property having been published by the Vendor in accordance with section 26 of the *Community Charter*; and

(b) the Council of the District of Metchosin, in its sole discretion, approves of the purchase of the Property on the terms and conditions set out in this Agreement.

5.3 Satisfaction of Conditions

(a) ~~Should the condition~~The conditions precedent ~~set out~~ in section 5.1~~(i) not be satisfied, this Agreement shall be null and void. The~~ are for the sole benefit of the Purchaser and may ~~elect to waive~~be unilaterally waived in writing in whole or in part by the Purchaser.

(b) The conditions ~~set out in ection 5.1(a) (i)~~precedent in section 5.2 are for the sole benefit of the Vendor and may be unilaterally waived in writing in whole or in part by the Vendor.

~~(b) Should the condition precedent set out in section 5.2 not be satisfied, this Agreement shall be null and void.~~

(c) ~~In consideration of Ten ($10.00) Dollars non-refundable paid by the Purchaser to the Vendors and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Vendors, the Vendors agree not to revoke its acceptance of the Purchaser's offer contained herein while this Agreement remains subject to~~If any of the conditions precedent in ~~section 5.1 and 5.2. The parties agree that this Agreement will become an unconditional contract for sale and purchase of the Property upon the satisfaction or , if applicable, waiver of all of the conditions precedent in~~ sections 5.1 and 5.2 are not declared satisfied or waived in writing by the Purchaser or the Vendor, respectively, on or before the respective dates provided therein, this Agreement will be terminated thereupon and the Deposit will be returned to the Purchaser as provided in section 2.3(b)(i).

(d) The Vendor hereby acknowledges receipt of non-refundable monies in the amount of Ten Dollars ($10.00) paid by the Purchaser in consideration of the Vendor allowing the Purchaser the benefit of the conditions precedent in section 5.1 and the conditions at section 7.11 and agreeing that the Vendor's acceptance of this Agreement is irrevocable. Notwithstanding anything contained herein to the contrary, the non-refundable monies referred to in this paragraph will not be returned to the Purchaser pursuant to this Agreement for any reason whatsoever.

(e) The Purchaser hereby acknowledges receipt of non-refundable monies in the amount of Ten Dollars ($10.00) paid by the Vendor in consideration of the Purchaser allowing the Vendor the benefit of the conditions precedent in section 5.2 and agreeing that the Purchaser's acceptance of this Agreement is irrevocable. Notwithstanding anything contained herein to the contrary, the non-refundable monies referred to in this paragraph will not be returned to the Vendor pursuant to this Agreement for any reason whatsoever.

6.0 RISK/POSSESSION

6.1 The Passing of Risk

The Property is at the risk of the ~~Vendors~~Vendor until completion of the closing under ~~section~~article 7.0.

6.2 Possession

The Purchaser shall have ~~the right to~~ vacant possession of the Property on the Closing Date, subject only to~~:~~

~~(a) all exceptions, reservations, provises contained in the original Crown grant; and(b)~~ the Permitted Encumbrances ~~referred to in section 2.1 above~~.

7.0 CLOSING PROCEDURE

7.1 The Closing

The closing of the purchase and sale of the Property will occur at 9:00 a.m. on the Closing Date at the offices of the Purchaser's Solicitors.

7.2 ~~Vendors~~Vendor's Documents

On or before the Closing Date, the ~~Vendors~~Vendor shall deliver the following documents to the Purchaser's Solicitor, duly executed by the Vendor:

(a) ~~an executed~~a registrable Form A Freehold Transfer (the ~~""~~**Transfer**~~""~~) conveying the Property to the Purchaser;

(b) ~~executed~~a statutary ~~declarations~~declaration of residency pursuant to the *Income Tax Act*;

(c) ~~an executed Vendor's Statement of Adjustments; and~~a Vendor's Statement of Adjustments;

(d) a certificate dated the Closing Date of the Vendor certifying that the Vendor's representations and warranties contained in this Agreement are true and correct in all material respects as at the Closing Date and that the Vendor's covenants and agreements to be observed or performed on or before the Closing Date pursuant to the terms of this Agreement have been duly observed and performed in all material respects; and

(e) ~~(d)~~ such other documents and assurances as may be reasonably required by the Purchaser or the Purchaser's Solicitors to give full effect to the intent and meaning of this Agreement.

7.3 Purchaser~~'~~s Documents

On or before the Closing Date, the Purchaser shall deliver to the Purchaser's ~~solicitor~~Solicitors the following, duly executed by the Purchaser as applicable:

(a) ~~an executed~~a certificate regarding the Purchaser's GST registration and status; and

(b) such other documents and assurances as may be reasonably required by the Vendor or the Vendor's Solicitors to give full effect to the intent and meaning of this Agreement.

7.4 Preparation of Closing Documents

The closing documents referred to in section 7.2 and 7.3 shall be prepared by the Purchaser's Solicitors and will be in form and substance acceptable to the Purchaser's Solicitors and the Vendor's Solicitors, each acting reasonably. The documents referred to in section 7.2 will be delivered to the ~~Vendors' solicitor~~Vendor's Solicitor for the ~~Vendors~~Vendor's execution 7 days prior to the Closing Date. The closing documents referred to in section 7.3 will be delivered to the ~~Purchasers~~Purchaser for execution prior to the Closing Date.

7.5 Payment in Trust

~~On~~Subject to section 7.9, on or before the Closing Date the Purchaser will pay to the Purchaser~~'~~s Solicitors, in trust, the balance of the Purchase Price, as adjusted under section 2.4.

7.6 Registration

~~The Purchaser will cause~~On the Closing Date, the Purchaser~~'~~ will cause the Purchaser's Solicitors to file the Transfer in the appropriate Land Title Office promptly following:

(a) the payment in section 7.5, and

(b) the receipt by the Purchaser~~'~~s Solicitor of the documents and assurances referred to in section 7.2.

7.7 Closing

~~(a)~~ Promptly following the filing referred to in section 7.6 and upon the Purchaser~~'~~s Solicitor being satisfied, after conducting a post registration search, that in the normal course of the Land Title Office~~'~~s registration procedures the Purchaser will have a good and marketable freehold title to the Property subject only to the Permitted Encumbrances, any encumbrances approved by the Purchaser, and any financial encumbrances to be discharged by the ~~Vendors~~Vendor under section ~~7.9~~7.10, the Purchaser will cause the Purchaser~~'~~s Solicitor to make available to the ~~Vendors' solicitor~~ Vendor's Solicitors:

(a) a trust cheque for the ~~balance of the~~ Purchase Price (including the Deposit), as adjusted under section 2.4; and

(b) the documents and assurances referred to in section 7.3 ~~will be released to the Vendors~~.

7.8 Concurrent Requirements

It is a condition of this Agreement that all requirements of this article 7.0 are concurrent requirements and it is specifically agreed that nothing will be completed on the Closing Date until everything required to be paid, executed and delivered on the Closing Date has been so paid, executed and delivered ~~and until the~~ .

7.9 Purchaser~~'s solicitors have satisfied themselves as to the Purchaser's title under section 7.7.~~ Financing

If the Purchaser is relying upon a new mortgage to finance the Purchase Price, the Purchaser, while still required to pay the Purchase Price on the Closing Date, may wait to pay the Purchase Price to the Vendor until after the Transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Purchaser has: (a) made available for tender to the Vendor that portion of the Purchase Price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Vendor, an undertaking of the Purchaser's Solicitors to pay the adjusted Purchase Price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds pursuant to the Canadian Bar Association (BC Branch) (Real Property Section) Standard Undertakings.

7.10 ~~7.9~~ Discharge of ~~Vendors~~Vendor's Encumbrances

~~The Purchaser acknowledges and agrees that if~~If the ~~Vendors~~Vendor's title to the Property is subject to any financial encumbrance which is required to be discharged by the ~~Vendors~~Vendor, the ~~Vendors~~Vendor will not be required to clear title before the receipt of the net sales proceeds but will be obligated to do so within a reasonable time following closing and in that case the Purchaser will cause ~~its solicitors~~the Purchaser's Solicitors to pay the ~~balance of the~~ adjusted Purchase Price to the ~~Vendors' solicitors~~Vendor's Solicitors, in trust, on their undertaking to discharge any such financial encumbrance in accordance with the Canadian Bar Association (B.C. Branch, Real Property Section) Standard Undertakings.

7.11 ~~7.10~~ **Election**

If, on the Closing Date, any of the representations or warranties made by the ~~Vendors~~Vendor are untrue ~~(~~in any material respect~~)~~ or the ~~Vendors are~~Vendor is in default in any material respect under any of the covenants and agreements to be observed or performed by the ~~Vendors~~Vendor under this Agreement, the Purchaser may elect not to complete the purchase of the Property under this Agreement or to complete the purchase of the Property under this Agreement, in either case without prejudice to any rights or remedies the Purchaser may have in respect of the ~~Vendors~~Vendor's breach or default.

8.0 MISCELLANEOUS

8.1 Time

Time is of the essence of this Agreement and the transactions contemplated in this Agreement notwithstanding the extension of any of the dates under this Agreement.

8.2 Relationship of the Parties

Nothing in this Agreement shall be construed so as to make the Purchaser a partner of the ~~Vendors or an owner of the Property for any purpose, including the *Builders Lien Act*, until the completion of the purchase and sale on the Closing Date, and, subject to section 4.1(a) the Vendors~~Vendor.

8.3 Indemnity

The Vendor shall indemnify and save the Purchaser harmless from any and all costs, expenses, damages, claims, or liabilities which may be incurred with respect to the Property before the Closing Date which the Purchaser is not obligated to assume under this Agreement~~, and this~~. This provision shall survive the Closing Date or the termination of this Agreement.

8.4 ~~8.3~~ **Notices**

~~(a) each notice sent pursuant to this Agreement ("**Notice**") shall be in writing and shall be sent to the relevant Party at the relevant address, facsimile number or e-mail address set out below. Each such Notice may be sent by registered mail, by commercial courier, by facsimile transmission, or by electronic mail;~~

~~(b) the Contact Information for the parties is:~~

Any demand, notice, approval, consent or other communication to be given under the provisions of this Agreement by any party will be validly given if delivered personally or sent by e-mail addressed to the respective parties as follows:

(a) to the Purchaser:

CAPITAL REGIONAL DISTRICT
625 Fisgard Street

Victoria, BC V8W 2S7

Attention: Stephen Henderson
~~Telephone:250-360-3136~~
Email: shenderson@crd.bc.ca

~~Vendors:~~

(b) to the Vendor:

DISTRICT OF METCHOSIN
4450 Happy Valley Road
Victoria, BC V9C 3Z3

Attention: Lisa Urlacher
~~Telephone:250-474-3167~~
Email: lurlacher@metchosin.ca

~~each Notice sent by electronic mail ("**E-Mail Notice**") must show the e-mail address of the sender, the name or e-mail address of the recipient, and the date and time of transmission, must be fully accessible by the recipient, and unless receipt is acknowledged, must be followed within twenty-four (24) hours by a true copy of such Notice, including all addressing and transmission details, delivered (including by commercial courier) or sent by facsimile transmission;~~

~~(c) subject to section 8.3(f) through (h) each Notice shall be deemed to have been given or made at the following times:~~

~~(i) if delivered to the address (including by commercial courier), on the day the Notice is delivered;~~

~~(ii) if sent by registered mail, seven (7) days following the date of such mailing by sender;~~

~~(iii) if sent by facsimile transmission, on the date the Notice is sent by facsimile transmission; or~~

~~(iv) if sent by electronic mail, on the date the E-Mail Notice is sent electronically by e-mail by the sender;~~

~~(d)~~

The date of receipt of any such notice or communication will be deemed to be the date of delivery or transmittal by e-mail if ~~a Notice is~~ delivered~~, sent by facsimile transmission or sent by electronic mail after 4:00 p.m., or if the date of deemed receipt of a Notice falls upon a day that is not a business day, then the Notice shall be deemed to have been given or made~~ by 4:00 p.m. (Victoria time) on a business day, and if otherwise delivered or transmitted by e-mail, on the next business day following~~;~~

~~(e) notice given by facsimile transmission in accordance with the terms of this section 8.3 will only be deemed to be received by the recipient if the sender's facsimile machine generates written confirmation indicating that the facsimile transmission was sent;~~

~~(f) if normal mail service, facsimile or electronic mail is interrupted by strike, slow down, force majeure or other cause beyond the control of the parties, 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 shall utilize any other such services which have not been so interrupted or shall personally deliver such Notice in order to ensure prompt receipt thereof; and~~

~~(g) each Party shall provide Notice~~ the date of such delivery or transmittal. Either party may at any time give notice in writing to the other ~~Party~~ of any change of address~~, facsimile number, or e-mail address of such Party within a reasonable time of such change~~ of the party giving such notice to be given in the manner aforesaid, and from and after giving such notice, the address therein specified will be deemed to be the address of such party for the giving of such notice.

8.5 ~~8.4~~ **Further Assurances**

Each of the parties shall, at the expense of the other party, execute and deliver all such further documents and do such further acts and things as the other party may reasonably request from time to time to give full effect to this Agreement.

8.6 ~~8.5~~ **Assignment**

The Purchaser may not assign its rights under this Agreement.

8.7 ~~8.6~~ **Non-merger**

None of the provisions of this Agreement shall merge in the transfer of the Property or any other document delivered on the Closing Date, and the provisions of this Agreement shall survive the Closing Date.

8.8 ~~8.7~~ **Payment of Fees**

Each party shall pay its own legal fees. The Purchaser shall be responsible for all registration fees payable in connection with registration of the ~~transfer of land referred to in section 7.6~~Transfer. Any and all other costs (including GST), duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind (other than income taxes and other amounts payable pursuant to the *Income Tax Act* or any similar statute of any province or territory of Canada) that are payable as a consequence of the purchase of the Property pursuant to this Agreement are the sole responsibility of, and are for the account of, the Purchaser. The ~~Vendors~~Vendor shall be responsible for the costs of clearing title of any financial encumbrances.

8.9 ~~8.8~~ **Commission**

The ~~Vendors agree~~Vendor agrees that it is the ~~Vendors~~Vendor's responsibility to pay any real estate commission payable as a result of the purchase and sale of the Property and agrees to indemnify the Purchaser with respect to all real estate commissions in connection with the transaction and agrees that such commission shall be paid out of the Purchase Price on the Closing Date.

8.10 ~~8.9~~ **Goods and Services Tax**

The Purchase Price does not include GST and the ~~Purchasershall~~Purchaser shall self-assess the GST and account directly to the Canada Revenue Agency therefor.

8.11 ~~8.10~~ **Binding Effect**

This Agreement shall enure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, and other legal representatives and, to the extent permitted in this Agreement, their respective successors and assigns.

8.12 ~~8.11~~ **No Derogation from Statutory Powers**

Nothing in this Agreement shall be interpreted as prejudicing or impairing the Purchaser or the Vendor in the exercise of any statutory legislative powers under the *Local Government Act*, the *Community Charter* or any other enactment all of which may be executed as if this Agreement had not been exercised. ~~Provided~~; provided that the foregoing shall not restrict or limit the rights and remedies of the ~~Vendors~~Vendor resulting or arising from a breach or non-performance of the terms of this Agreement by the Purchaser or of the Purchaser resulting from or arising from a breach or non-performance of the terms of this Agreement by the Vendor.

8.13 ~~8.12~~ **Extended Meanings**

Words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.

8.14 ~~8.13~~ **Headings**

The headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

8.15 ~~8.14~~ **Articles**

For the purposes of this Agreement, except as otherwise expressly provided herein all references in this Agreement to an article, section, subsection, paragraph, or other subdivision, or to a schedule, is to the article, section, subsection, paragraph or other subdivision of or schedule to this Agreement unless otherwise specifically stated.

8.16 ~~8.15~~ **Applicable Law**

This Agreement shall be interpreted in accordance with the laws of British Columbia.

8.17 ~~8.16~~ **Waiver**

Except as may be specifically agreed in writing, no action or failure to act by a party to this Agreement shall constitute a waiver of any right or duty afforded any of them under this Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any breach of this Agreement.

8.18 ~~8.17~~ **Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement and contains all of the representations, warranties, covenants and agreements of the respective parties, and may not be amended or modified except by an instrument in writing executed by all parties. This Agreement supersedes all prior agreements, memoranda, and negotiations between the parties.

8.19 ~~8.18~~ **Schedules**

The Schedules attached to this Agreement form part of this Agreement.

[the remainder of this page is intentionally blank]

8.20 ~~8.19~~ **Counterparts**

This Agreement may be executed electronically, including through DocuSign and similar applications, in any number of counterparts (including counterparts by scanned or electronic signature), each of which will be deemed to be an original, but all of which shall constitute one and the same document. Delivery of a counterpart of this Agreement electronically (including by email, fax or over an electronic signature platform) will be for all purposes as effective as if the parties had delivered an original executed Agreement.

~~Signature Page to Follow~~

~~EXECUTED BY THE~~

IN WITNESS WHEREOF the parties have executed this Agreement.

DISTRICT OF METCHOSIN,
by its authorized signatory(ies):

_____

Name:
Title:

_____

Name:
Title:

CAPITAL REGIONAL DISTRICT ~~at _____, British Columbia, this ____ day of _____, 2020,~~
by its authorized signatory(ies):

_____

Name:
Title:

_____

Name:
Title:

~~**CAPITAL REGIONAL DISTRICT**, by its authorized signatories~~)
)
)
)
)

~~Name: _____~~

EXECUTED BY THE VENDORS at _____, British Columbia, this ____ day of _____, 2020

day of _____, 2020

DISTRICT OF METCHOSIN, by its authorized signatories

Name: _____

Name:

SCHEDULE "A"

Permitted Encumbrances

1. Reservations and Exceptions:

(a) All exceptions, reservations, and provisos contained in the original Crown grant of the Property.

2. Legal Notations:

(a) HERETO IS ANNEXED RESTRICTIVE COVENANT CA5867521 OVER LOT D PLAN EPP69605;

(b) SUBJECT TO EXCEPTIONS AND RESERVATIONS CONTAINED IN CROWN GRANT FILED IN DD 258855I;

(c) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB466313; and

(d) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB466314.

3. Charges, Liens and Interests

~~Covenant - EG44432 – need to be discharged~~
~~Covenant - EX2189 – needs to be discharged~~

(a) Easement –CA5867519;

(b) Covenant –CA5867520;

(c) Statutory Right of Way –CA6808700; and

(d) the Park Use Covenant.

Document comparison by Workshare 10.0 on Monday, October 4, 2021 12:03:43 PM

Input:	
Document 1 ID	iManage://DMS/Lawson/20460680/1
Description	#20460680v1<Lawson> - 21-08-17 CRD - Metchosin - Purchase Agreement - Metchosin Greenspace Lan...
Document 2 ID	iManage://DMS/Lawson/20451276/1
Description	#20451276v1<Lawson> - 21-08-17 CRD - Metchosin - Purchase Agreement - Metchosin Greenspace Lan...
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	322
Deletions	241
Moved from	8
Moved to	8
Style change	0
Format changed	0
Total changes	579

NOTICE OF DISPOSITION OF PROPERTY

Pursuant to Section 26(3) of the *Community Charter*, SBC 2003, c 26

TAKE NOTICE that the District of Metchosin (the "District") proposes to dispose of an interest in the following land to the Capital Regional District.

Legal Description: PID 030-095-875
Lot A Sections 93 94 96 and 108 Metchosin District Plan EPP69605

(the "Land")

The proposed disposition is a sale of the fee simple interest in the Land. The consideration to be received by the District is the purchase price of $274,400.00.

Any enquiries concerning this proposed disposition may be directed to Lisa Urlacher, Chief Administrative Officer, at 250-474-3167 or lurlacher@metchosin.ca.

District of Metchosin

Minutes
Special Closed Portion of the Council Meeting
October 7, 2021 at 10:00 a.m.
Council Chambers
Metchosin Municipal Hall

Present: Mayor Ranns, Councillors Kahakauwila and Little. Also present L. Urlacher, CAO and T. Van Swieten Deputy Corporate Officer

Via Phone: Councillor MacKinnon

Regrets: Councillor Epp

The meeting was called to order at 10:12 a.m.

FIPPA s. 12(3)(b)

[redacted]

2. **Business Arising**

a) **Purchase Agreement – District of Metchosin and Capital Regional District (CRD)**

Staff gave an overview of the Purchase Agreement between the District of Metchosin and the Capital Regional District regarding exploring a sale with the CRD for a Regional Park (Section 28 Green Space). The following was discussed:

- Concerns and risks
- Changes made to the Purchase Agreement
- Legal Advice
- Allowed uses and wording used to describe the uses (eg. when environmentally suitable)
- Exploring a sale with the CRD for a regional park, this is the first step in the process

Moved and Seconded by Councillors MacKinnon and Kahakauwila that Council provide approval for staff to provide Notice of Disposition of Property in two consecutive editions of the Gazette, October 13th and October 20th, 2021 under *Section 26 of the Community Charter, Notice of Proposed Property Disposition.*

Carried

It was noted that staff will bring back the Purchase Agreement with suggested amendments.

3. **Release of Closed Portion Resolution**

Moved and seconded by Councillors Kahakauwila and Little that Council release the motion to approve advertising the Notice of Disposition of Property.

Carried

4. Adjournment

Moved and Seconded by Councillors Little and Kahakauwila to adjourn the closed portion of the Council meeting at 10:37 a.m.

Carried

Certified Correct:

Mayor

Corporate Officer

District of Metchosin

Closed Portion Agenda

Council Meeting
October 25, 2021 at 11:00 a.m.
Council Chambers

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1. **Agenda, Additions and Approval**

2. **Presentations**

FIPPA s. 12(3)(b)

4. **Business Arising**
   a) Disposition of Greenspace 9

FIPPA s. 12(3)(b)

5. **Reports**

6. **Correspondence**

7. **New Business**

8. **Other Business**

9. **Adjournment**

District of Metchosin

Minutes
In Camera Council Meeting
July 12, 2021at 5:00 p.m.
Metchosin Municipal Hall
Council Chambers/Electronic Meeting/Conference Call
In accordance with Ministerial Order No. M192

Present: Mayor Ranns in the Chair, Councillors Kahakauwila, Epp and Little. Also present was L. Urlacher, CAO and T. Van Swieten, Deputy Corporate Officer

Via Phone: Councillor MacKinnon

The meeting was called to order at 5:04 p.m.

FIPPA s. 12(3)(b)



FIPPA s. 12(3)(b)

[redacted]

c) Mary Hill

Staff gave a brief overview of the attached documents regarding Mary Hill and the following was discussed:

- Work still in progress on amendments
- Questions to the lawyer
- Process of what will take place, how we will use the funds and keeping the funds in trust until needed to progress in the process
- CRD valued District's property significantly less than expected
- Protected parkland is not worth as much money
- CRD to negotiate purchase o[redacted] Sec 95 and 28
- $4 Million and needs to be package deal (if one element fails, the whole process fails)
- Managing protected green space – costs involved

[redacted]

FIPPA s. 17(1)(e)

- Potentially losing Mary Hill/Preserving Mary Hill

[redacted]

- Legal Opinion on disposition

FIPPA s. 12(3)(b)

[redacted]

12(3)(b) [redacted]

7. **Adjournment**

Moved and Seconded by Councillors Kahakauwila and Little that Council adjourn the In Camera portion of the Council meeting at 6:40 p.m.

Carried

Certified Correct

_____
Mayor

_____
Corporate Officer

District of Metchosin

Minutes
Special Closed Portion of the Council Meeting
September 17, 2021 at 11:00 a.m.

Council Chambers
Metchosin Municipal Hall

Present: Mayor Ranns, Councillors Kahakauwila, MacKinnon and Epp. Also present was L. Urlacher, CAO and Tina Hansen, Recorder

Via Conference Call: Sherry Hurst, Planner

Regrets: Councillor Little

Closed Portion, Exclusion of the Public

Moved and Seconded by Councillors MacKinnon and Kahakauwila that the public be excluded under section 90 (1) and 90 (2) of the Community Charter in order to consider:
a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
(g) litigation or potential litigation affecting the municipality;
(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
2 (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

Carried

The meeting was called to order at 11:05 a.m.

12(3)(b)



2. Business Arising

a) Disposition of Greenspace

Staff provided an overview of the proposed Purchase Agreement with the Capital Regional District (CRD) for Lot A and the Legal Opinion related to the use of proceeds for the sale of land.

Council discussed the following:

- Assurances that Lot A remains greenspace in perpetuity; Section 219 Covenant
- Starting up Mary Hill Steering Committee meetings
- Options provided in Legal Opinion

Action Item: Council directed Staff to investigate options for consideration to proceed with the Disposition of Lot A, ensuring it remains park in perpetuity, to be considered together with the parcels of land referenced in the Reconciliation Agreement with the objective of preserving Mary Hill.

Sherry Hurst left the meeting at 11:35 a.m.

12(3)(b)



12(3)(b)

[redacted]

7. Adjournment

Moved and Seconded by Councillors Kahakauwila and Epp to adjourn the closed portion of the Special Council meeting at 1:08 p.m.

Carried

Certified Correct:

Mayor **Corporate Officer**

PURCHASE AGREEMENT

THIS AGREEMENT is dated for reference October _____, 2021.

BETWEEN:

DISTRICT OF METCHOSIN
4450 Happy Valley Road, Victoria, BC, V9C 3Z3

(the "**Vendor**")

AND:

CAPITAL REGIONAL DISTRICT
625 Fisgard Street, Victoria, BC, V8W 2S7

(the "**Purchaser**")

WHEREAS:

A. The Vendor is the sole registered, legal and beneficial owner of the Property (defined below).

B. The Vendor has agreed to sell and the Purchaser has agreed to purchase all of the Vendor's right, title, and interest in the Property, on the terms and conditions set out in this Agreement.

C. The parties intend that the purchase and sale of the Property will be the first in a series of transactions whereby the Purchaser is willing and intends to acquire two (2) additional properites (Section 28 and Section 95) from the future owner subject to, among other things, the parties agreeing on the terms and conditions of such further transactions, and to allow Metchosin to advance First Nation reconciliation initiatives.

The legal descriptions of these lots are the following:

Parcel Identifier: 010-974 385
SECTION 95 METCHOSIN EXEMPT MUNICIPAL ACT SEC 398-A; and

Parcel 001-713 582
SECTION 28 METCHOSIN EXEMPT MUNICIPAL ACT SEC 398-A,

D. The Purchaser intends for the purchased Property to be owned and managed for regional parks purposes in order to protect sensitive natural values and to offer compatible outdoor recreational opportunities, including hiking, mountain biking and equestrian use where appropriate.

E. That Metchosin may, in the future, amend the zoning and Official Community Plan to be consistent with park use.

NOW THEREFORE in consideration of the Purchase Price (defined below) and mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the parties), the parties agree as follows:

1.0 DEFINITIONS

1.1 In this Agreement the following terms shall have the following meanings:

"**Agreement**" means this Purchase Agreement, including its Schedules.

"**Closing Date**" means November 24, 2021, or such other date as may be agreed to by the parties in writing.

"**Contaminants**" means any explosives, radioactive materials, asbestos materials, urea formaldehyde, chlorobyphenols, hydrocarbon contaminates, underground or above ground tanks, pollutants, contaminants, hazards, corrosive or toxic substances, special waste, hazardous waste or waste of any kind or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws.

"**Deposit**" means the sum of $10,000.00.

"**Environmental Laws**" means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Property, now or hereafter in force with respect in any way to the environment, health or occupational health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time and the principles of common law and equity.

"**Property**" means the lands and premises situate in British Columbia, legally described as:

Parcel Identifier: 030-095-875
LOT A SECTIONS 93 94 96 AND 108 METCHOSIN DISTRICT PLAN EPP69605

"**Permitted Encumbrances**" means all exceptions, reservations, legal notations, liens, charges, and encumbrances as shown on Schedule "A".

"**Purchase Price**" means the sum of Two Hundred and Seventy Four Thousand and Four Hundred Dollars ($274,400.00).

"**Purchaser's Solicitors**" means Lawson Lundell LLP, or any other firm of solicitors appointed from time to time by the Purchaser as the Purchaser's solicitors for the purposes of this Agreement.

"**Vendor's Solicitors**" means Stewart McDannold Stuart, or any other firm of solicitors appointed from time to time by the Vendor as the Vendor's solicitors for the purposes of this Agreement.

2.0 PURCHASE AND SALE

2.1 The Purchaser agrees to purchase from the Vendor, and the Vendor agrees to sell to the Purchaser, for the Purchase Price and otherwise on the terms and conditions contained in this Agreement, good and marketable freehold title to the Property, free and clear of all liens, charges and encumbrances, except for the Permitted Encumbrances.

2.2 Purchase Price

The Purchase Price payable by the Purchaser to the Vendor for the Property shall be subject to the adjustments described in Article 2.4 and shall be exclusive of GST.

The Purchaser will pay the Purchase Price to the Vendor as follows:

(a) as to the Deposit, by payment to Purchaser's Solicitors, in trust, within 5 days of the satisfaction or if applicable, waiver of the conditions in sections 5.1 and 5.2 by cheque, bank draft, wire transfer, or solicitor's or notary's trust cheque; and

(b) the balance of the Purchase Price, subject to the adjustments provided for in this Agreement, will be paid on the Closing Date in accordance with article 7.0.

2.3 Application of Deposit

(a) The Deposit will be paid to the Vendor:

(i) on the Closing Date on account of the Purchase Price, if the Vendor and the Purchaser complete the sale and purchase of the Property on the Closing Date; or

(ii) if the Purchaser fails to complete the sale and purchase of the Property in accordance with this Agreement (other than as a result of a default of the Vendor or as permitted under this Agreement), as liquidated damages as a genuine pre-estimate of the Vendor's damages for full and final settlement of any claim which the Vendor may have against the Purchaser, which the Vendor agrees will be its only remedy for such default; or

(b) the Deposit will be returned to the Purchaser:

(i) if all of the conditions precedent in sections 5.1 and 5.2 are not declared satisfied or waived by the applicable parties in accordance with this Agreement; or

(ii) if the Purchaser elects not to complete the purchase of the Property in accordance with section 7.11; or

(iii) if the Vendor fails to complete the sale of the Property in accordance with this Agreement (other than as a result of a default of the Purchaser or as

permitted under this Agreement), without prejudice to any other right or remedy of the Purchaser.

2.4 Adjustments

The Vendor and Purchaser will make all adjustments to and including the Closing Date with respect to taxes, utilities, rents, and all other items normally adjusted between a vendor and purchaser on the sale of similar property.

3.0 REPRESENTATIONS AND WARRANTIES

3.1 Purchaser's Representations and Warranties

The Purchaser represents and warrants to the Vendor the Purchaser has full power, authority (subject to satisfaction of the Purchaser's condition at section 5.1(j)) and capacity to enter into this Agreement and carry out the transactions contemplated herein.

3.2 Vendor's Representations and Warranties

The Vendor represents and warrants to the Purchaser that as of the date of this Agreement and the Closing Date:

(a) the Vendor has full power, authority (subject to satisfaction of the Vendor's condition at section 5.2(b)) and capacity to enter into this Agreement and carry out the transactions contemplated herein;

(b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and

(c) the Vendor is the sole registered, legal and beneficial owner of the Property, and has good and marketable title to the Property free and clear of all liens, charges, and encumbrances except for the Permitted Encumbrances.

3.3 Survival of Vendor's Representations and Warranties

The representations and warranties contained in section 3.2 shall survive the Closing Date and shall continue in full force and effect for the benefit of the Purchaser, notwithstanding any independent inquiry or investigation by the Purchaser, the subject matter of which is contained in a representation or warranty herein, or the waiver by the Purchaser of any condition set out in section 5.1.

4.0 COVENANTS

4.1 Vendor's Covenants

The Vendor covenants with the Purchaser to:

(a) permit the Purchaser and its representatives to enter onto the Property and carry out such inspections, assessments, tests, studies, appraisals, surveys and investigations of the Property as the Purchaser may reasonably require;

(b) within 5 business days following the execution and delivery of this Agreement by both parties, deliver to the Purchaser all material and relevant documents and information that the Vendor has in its possession or control pertaining to the Property that a sophisticated potential owner of the Property would consider necessary or relevant to enable a thorough understanding of all aspects of the Property;

(c) until the Closing Date, maintain and repair the Property in its present condition, reasonable wear and tear excepted, and to operate the Property as a careful and prudent owner would do;

(d) observe and perform all of its obligations under the Permitted Encumbrances as would a prudent owner;

(e) maintain all existing insurance coverage in respect of the Property in full force and effect up to and including the Closing Date;

(f) not enter into or amend any contract with respect to the Property before the Closing Date, without consent of the Purchaser, which may be withheld in the Purchaser's sole discretion; and

(g) forthwith notify the Purchaser if it becomes aware that any of its representations or warranties have become untrue or incorrect in any material respect.

4.2 Purchaser's Covenant

The Purchaser covenants and agrees with the Vendor that:

(a) subject to and without limiting any of the express representations and warranties of the Vendor under this Agreement, the Purchaser is purchasing the Property on an "as is where is" basis and, without limiting the generality of the foregoing, the Purchaser has and hereafter will continue to use its own due diligence, resources and independent investigations to satisfy itself on every aspect, thing and matter relating to or in connection with the Property and neighbouring properties including, but not limited to zoning, land use planning, current and past uses of the Property and neighboring properties, existence of Contaminants and compliance with Environmental Laws; and

(b) the Purchaser will manage the Property as a Regional Park, as defined in the Local Government Act, as part of the Purchaser's Regional Park system, in accordance with the Park Use Covenant (as defined below). This covenant is not a condition subsequent to this agreement and shall not fetter the legislative discretion of the Board of the Purchaser.

5.0 CONDITIONS

5.1 Purchaser's Conditions

The obligation of the Purchaser to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being declared satisfied or waived in writing by the Purchaser on or before November 1, 2021:

(a) the Vendor delivering to the Purchaser, and the Purchaser being satisfied with, a site disclosure statement in accordance with the *Environmental Management Act* and *Contaminated Sites Regulation;*

(b) the Purchaser being satisified with the results of all due diligence conducted by the Purchaser relating to the land acquisition;

(c) the Purchaser being satisified with the results of an environmental site assessment of the Property to be conducted by the Purchaser;

(d) the Purchaser being satisfied with a site inspection of the Property;

(e) the Purchaser being satisfied with the survey of the Property, prepared by a BC Land Surveyor, at the Purchaser's cost.

(f) the Purchaser being satisfied with the review of title and that all Permitted Encumbrances are consistent with the Purchaser's intended use;

(g) the Purchaser being satisfied with the terms of access across, or alternative access around, the provincial Crown land (SECTION 95, METCHOSIN DISTRICT, PID 010 974 385);

(h) the Purchaser being satisfied with the potential alignment of recreational trails to access and cross the lands legally described as Lot D SECTIONS 93 94 96 AND 108 METCHOSIN DISTRICT PLAN EPP6960, PID 030 095 905);

(i) the Purchaser being satisfied with the terms and conditions of a park use covenant (the "**Park Use Covenant**") to be registered as a section 219 covenant against title to the Property prior to the Closing Date by and in favour of the Vendor; and

(j) approval of the Board of the Capital Regional District, in its sole discretion, of the purchase of the Property on the terms and conditions set out in this Agreement.

5.2 Vendor's Conditions

The obligation of the Vendor to complete the purchase of the Property on the Closing Date is subject to the following conditions precedent being declared satisfied or waived in writing by the Vendor on or before November 1, 2021:

(a) notice of disposition of the Property having been published by the Vendor in accordance with section 26 of the *Community Charter*; and

(b) the Council of the District of Metchosin, in its sole discretion, approves of the purchase of the Property on the terms and conditions set out in this Agreement.

5.3 Satisfaction of Conditions

(a) The conditions precedent in section 5.1 are for the sole benefit of the Purchaser and may be unilaterally waived in writing in whole or in part by the Purchaser.

(b) The conditions precedent in section 5.2 are for the sole benefit of the Vendor and may be unilaterally waived in writing in whole or in part by the Vendor.

(c) If any of the conditions precedent in sections 5.1 and 5.2 are not declared satisfied or waived in writing by the Purchaser or the Vendor, respectively, on or before the respective dates provided therein, this Agreement will be terminated thereupon and the Deposit will be returned to the Purchaser as provided in section 2.3(b)(i).

(d) The Vendor hereby acknowledges receipt of non-refundable monies in the amount of Ten Dollars ($10.00) paid by the Purchaser in consideration of the Vendor allowing the Purchaser the benefit of the conditions precedent in section 5.1 and the conditions at section 7.11 and agreeing that the Vendor's acceptance of this Agreement is irrevocable. Notwithstanding anything contained herein to the contrary, the non-refundable monies referred to in this paragraph will not be returned to the Purchaser pursuant to this Agreement for any reason whatsoever.

(e) The Purchaser hereby acknowledges receipt of non-refundable monies in the amount of Ten Dollars ($10.00) paid by the Vendor in consideration of the Purchaser allowing the Vendor the benefit of the conditions precedent in section 5.2 and agreeing that the Purchaser's acceptance of this Agreement is irrevocable. Notwithstanding anything contained herein to the contrary, the non-refundable monies referred to in this paragraph will not be returned to the Vendor pursuant to this Agreement for any reason whatsoever.

6.0 RISK/POSSESSION

6.1 The Passing of Risk

The Property is at the risk of the Vendor until completion of the closing under article 7.0.

6.2 Possession

The Purchaser shall have vacant possession of the Property on the Closing Date, subject only to the Permitted Encumbrances.

7.0 CLOSING PROCEDURE

7.1 The Closing

The closing of the purchase and sale of the Property will occur at 9:00 a.m. on the Closing Date at the offices of the Purchaser's Solicitors.

7.2 Vendor's Documents

On or before the Closing Date, the Vendor shall deliver the following documents to the Purchaser's Solicitor, duly executed by the Vendor:

(a) a registrable Form A Freehold Transfer (the "**Transfer**") conveying the Property to the Purchaser;

(b) a statutary declaration of residency pursuant to the *Income Tax Act*;

(c) a Vendor's Statement of Adjustments;

(d) a certificate dated the Closing Date of the Vendor certifying that the Vendor's representations and warranties contained in this Agreement are true and correct in all material respects as at the Closing Date and that the Vendor's covenants and agreements to be observed or performed on or before the Closing Date pursuant to the terms of this Agreement have been duly observed and performed in all material respects; and

(e) such other documents and assurances as may be reasonably required by the Purchaser or the Purchaser's Solicitors to give full effect to the intent and meaning of this Agreement.

7.3 Purchaser's Documents

On or before the Closing Date, the Purchaser shall deliver to the Purchaser's Solicitors the following, duly executed by the Purchaser as applicable:

(a) a certificate regarding the Purchaser's GST registration and status; and

(b) such other documents and assurances as may be reasonably required by the Vendor or the Vendor's Solicitors to give full effect to the intent and meaning of this Agreement.

7.4 Preparation of Closing Documents

The closing documents referred to in section 7.2 and 7.3 shall be prepared by the Purchaser's Solicitors and will be in form and substance acceptable to the Purchaser's Solicitors and the Vendor's Solicitors, each acting reasonably. The documents referred to in section 7.2 will be delivered to the Vendor's Solicitor for the Vendor's execution 7 days prior to the Closing Date. The closing documents referred to in section 7.3 will be delivered to the Purchaser for execution prior to the Closing Date.

7.5 Payment in Trust

Subject to section 7.9, on or before the Closing Date the Purchaser will pay to the Purchaser's Solicitors, in trust, the balance of the Purchase Price, as adjusted under section 2.4.

7.6 Registration

On the Closing Date, the Purchaser will cause the Purchaser's Solicitors to file the Transfer in the appropriate Land Title Office promptly following:

(a) the payment in section 7.5, and

(b) the receipt by the Purchaser's Solicitor of the documents and assurances referred to in section 7.2.

7.7 Closing

Promptly following the filing referred to in section 7.6 and upon the Purchaser's Solicitor being satisfied, after conducting a post registration search, that in the normal course of the Land Title Office's registration procedures the Purchaser will have a good and marketable freehold title to the Property subject only to the Permitted Encumbrances, any encumbrances approved by the Purchaser, and any financial encumbrances to be discharged by the Vendor under section 7.10, the Purchaser will cause the Purchaser's Solicitor to make available to the Vendor's Solicitors:

(a) a trust cheque for the Purchase Price (including the Deposit), as adjusted under section 2.4; and

(b) the documents and assurances referred to in section 7.3.

7.8 Concurrent Requirements

It is a condition of this Agreement that all requirements of this article 7.0 are concurrent requirements and it is specifically agreed that nothing will be completed on the Closing Date until everything required to be paid, executed and delivered on the Closing Date has been so paid, executed and delivered.

7.9 Purchaser Financing

If the Purchaser is relying upon a new mortgage to finance the Purchase Price, the Purchaser, while still required to pay the Purchase Price on the Closing Date, may wait to pay the Purchase Price to the Vendor until after the Transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Purchaser has: (a) made available for tender to the Vendor that portion of the Purchase Price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Vendor, an undertaking of the Purchaser's Solicitors to pay the adjusted Purchase Price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds pursuant to the Canadian Bar Association (BC Branch) (Real Property Section) Standard Undertakings.

7.10 Discharge of Vendor's Encumbrances

If the Vendor's title to the Property is subject to any financial encumbrance which is required to be discharged by the Vendor, the Vendor will not be required to clear title before the receipt of the net sales proceeds but will be obligated to do so within a reasonable time

following closing and in that case the Purchaser will cause the Purchaser's Solicitors to pay the adjusted Purchase Price to the Vendor's Solicitors, in trust, on their undertaking to discharge any such financial encumbrance in accordance with the Canadian Bar Association (B.C. Branch, Real Property Section) Standard Undertakings.

7.11 Election

If, on the Closing Date, any of the representations or warranties made by the Vendor are untrue in any material respect or the Vendor is in default in any material respect under any of the covenants and agreements to be observed or performed by the Vendor under this Agreement, the Purchaser may elect not to complete the purchase of the Property under this Agreement or to complete the purchase of the Property under this Agreement, in either case without prejudice to any rights or remedies the Purchaser may have in respect of the Vendor's breach or default.

8.0 MISCELLANEOUS

8.1 Time

Time is of the essence of this Agreement and the transactions contemplated in this Agreement notwithstanding the extension of any of the dates under this Agreement.

8.2 Relationship of the Parties

Nothing in this Agreement shall be construed so as to make the Purchaser a partner of the Vendor.

8.3 Indemnity

The Vendor shall indemnify and save the Purchaser harmless from any and all costs, expenses, damages, claims, or liabilities which may be incurred with respect to the Property before the Closing Date which the Purchaser is not obligated to assume under this Agreement. This provision shall survive the Closing Date or the termination of this Agreement.

8.4 Notices

Any demand, notice, approval, consent or other communication to be given under the provisions of this Agreement by any party will be validly given if delivered personally or sent by e-mail addressed to the respective parties as follows:

(a) to the Purchaser:

CAPITAL REGIONAL DISTRICT
625 Fisgard Street
Victoria, BC V8W 2S7

Attention: Stephen Henderson
Email: shenderson@crd.bc.ca

(b) to the Vendor:

DISTRICT OF METCHOSIN
4450 Happy Valley Road
Victoria, BC V9C 3Z3

Attention: Lisa Urlacher
Email: lurlacher@metchosin.ca

The date of receipt of any such notice or communication will be deemed to be the date of delivery or transmittal by e-mail if delivered by 4:00 p.m. (Victoria time) on a business day, and if otherwise delivered or transmitted by e-mail, on the next business day following the date of such delivery or transmittal. Either party may at any time give notice in writing to the other of any change of address of the party giving such notice to be given in the manner aforesaid, and from and after giving such notice, the address therein specified will be deemed to be the address of such party for the giving of such notice.

8.5 Further Assurances

Each of the parties shall, at the expense of the other party, execute and deliver all such further documents and do such further acts and things as the other party may reasonably request from time to time to give full effect to this Agreement.

8.6 Assignment

The Purchaser may not assign its rights under this Agreement.

8.7 Non-merger

None of the provisions of this Agreement shall merge in the transfer of the Property or any other document delivered on the Closing Date, and the provisions of this Agreement shall survive the Closing Date.

8.8 Payment of Fees

Each party shall pay its own legal fees. The Purchaser shall be responsible for all registration fees payable in connection with registration of the Transfer. Any and all other costs (including GST), duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind (other than income taxes and other amounts payable pursuant to the *Income Tax Act* or any similar statute of any province or territory of Canada) that are payable as a consequence of the purchase of the Property pursuant to this Agreement are the sole responsibility of, and are for the account of, the Purchaser. The Vendor shall be responsible for the costs of clearing title of any financial encumbrances.

8.9 Commission

The Vendor agrees that it is the Vendor's responsibility to pay any real estate commission payable as a result of the purchase and sale of the Property and agrees to indemnify the Purchaser with respect to all real estate commissions in connection with the transaction

and agrees that such commission shall be paid out of the Purchase Price on the Closing Date.

8.10 Goods and Services Tax

The Purchase Price does not include GST and the Purchaser shall self-assess the GST and account directly to the Canada Revenue Agency therefor.

8.11 Binding Effect

This Agreement shall enure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, and other legal representatives and, to the extent permitted in this Agreement, their respective successors and assigns.

8.12 No Derogation from Statutory Powers

Nothing in this Agreement shall be interpreted as prejudicing or impairing the Purchaser or the Vendor in the exercise of any statutory legislative powers under the *Local Government Act*, the *Community Charter* or any other enactment all of which may be executed as if this Agreement had not been exercised; provided that the foregoing shall not restrict or limit the rights and remedies of the Vendor resulting or arising from a breach or non-performance of the terms of this Agreement by the Purchaser or of the Purchaser resulting from or arising from a breach or non-performance of the terms of this Agreement by the Vendor.

8.13 Extended Meanings

Words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.

8.14 Headings

The headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

8.15 Articles

For the purposes of this Agreement, except as otherwise expressly provided herein all references in this Agreement to an article, section, subsection, paragraph, or other subdivision, or to a schedule, is to the article, section, subsection, paragraph or other subdivision of or schedule to this Agreement unless otherwise specifically stated.

8.16 Applicable Law

This Agreement shall be interpreted in accordance with the laws of British Columbia.

8.17 Waiver

Except as may be specifically agreed in writing, no action or failure to act by a party to this Agreement shall constitute a waiver of any right or duty afforded any of them under this Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any breach of this Agreement.

8.18 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement and contains all of the representations, warranties, covenants and agreements of the respective parties, and may not be amended or modified except by an instrument in writing executed by all parties. This Agreement supersedes all prior agreements, memoranda, and negotiations between the parties.

8.19 Schedules

The Schedules attached to this Agreement form part of this Agreement.

[*the remainder of this page is intentionally blank*]

8.20 Counterparts

This Agreement may be executed electronically, including through DocuSign and similar applications, in any number of counterparts (including counterparts by scanned or electronic signature), each of which will be deemed to be an original, but all of which shall constitute one and the same document. Delivery of a counterpart of this Agreement electronically (including by email, fax or over an electronic signature platform) will be for all purposes as effective as if the parties had delivered an original executed Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement.

DISTRICT OF METCHOSIN,
by its authorized signatory(ies):

_____
Name:
Title:

_____
Name:
Title:

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

_____
Name:
Title:

_____
Name:
Title:

SCHEDULE "A"

Permitted Encumbrances

1. **Reservations and Exceptions:**

   (a) All exceptions, reservations, and provisos contained in the original Crown grant of the Property.

2. **Legal Notations:**

   (a) HERETO IS ANNEXED RESTRICTIVE COVENANT CA5867521 OVER LOT D PLAN EPP69605;

   (b) SUBJECT TO EXCEPTIONS AND RESERVATIONS CONTAINED IN CROWN GRANT FILED IN DD 258855I;

   (c) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB466313; and

   (d) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE FB466314.

3. **Charges, Liens and Interests**

   (a) Easement CA5867519;

   (b) Covenant CA5867520;

   (c) Statutory Right of Way CA6808700; and

   (d) the Park Use Covenant.

TERMS OF INSTRUMENT – PART 2
Section 219 Covenant (Regional Park Use)

This agreement, dated for reference the ___ day of _____, 2021 is between:

District of Metchosin
(the "Grantor")

and

DISTRICT OF METCHOSIN
(the "District")

WHEREAS:

A. The Grantor is the registered owner in fee simple of land more particularly described as:

PID:

(the "Land");

B. The Land lies within the municipal boundaries of the District;

C. Section 219 of the *Land Title Act* provides that an owner of land may grant to a local government a covenant in respect of the use of land and the preservation of amenities on land, even though the covenant is not annexed to land owned by the local government;

D. The Grantor has agreed to grant to the District a covenant over the Land restricting its use, in perpetuity, to use as a regional park,

THEREFORE in consideration of the premises and of the mutual promises and undertakings herein contained and the sum of one ($1.00) dollar now paid by the District to the Grantor, the receipt and sufficiency of which are acknowledged by the Grantor, the parties agree pursuant to section 218 and 219 of the *Land Title Act* as follows:

1. **Use of Land –** The Grantor covenants and agrees with the District that the Land shall not be used except as a regional park, for the use and enjoyment of the general public, in the same manner as if the Land was a dedicated park.

2. **Park Purposes** – For clarity but without limiting section 1, the Grantor and the District agree that the Land shall be used and managed to balance the protection of natural values and sensitive habitats with public access and limited development for recreational purposes, including walking, hiking, mountain biking and equestrian use, but only to the extent that these uses can be accommodated without unduly compromising the natural and habitat values of the Land.

3. **No Effect on Powers** – This Agreement does not:

(a) affect or limit the discretion, rights, duties or powers of the District under the common law or any statute, bylaw, or other enactment;

(b) affect or limit the common law or any statute, bylaw or other enactment applying to the Land; or

(c) relieve the Grantor from complying with the common law or any statute, bylaw or other enactment.

4. **No Waiver** – No waiver of default by either party is effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default of the other is to be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.

5. **Discretion** – Wherever in this Agreement the approval of the District is required, some act or thing is to be done to the District's satisfaction, the District is entitled to form an opinion, or the District is given a sole discretion:

(a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, opinion or expression of satisfaction is in writing signed by the District's Chief Administrative Officer ("CAO"); and,

(b) any discretion of the CAO is not subject to public law duties and the principles of procedural fairness and the rules of natural justice have no application.

6. **Specific Relief** – Because of the public interest in ensuring that all of the matters described in this agreement, and the provisions of all applicable laws, are complied with, the parties agree that the public interest strongly favours the award of a prohibitory or mandatory injunction, or an order for specific performance or other specific relief, by the Supreme Court of British Columbia at the instance of the District, in the event of an actual or threatened breach of this agreement.

7. **Joint and Several** – If at any time more than one person (as defined in the *Interpretation Act* (British Columbia)) owns the Land, each of those persons will be jointly and severally liable for all of the obligations of the Grantor under this agreement.

8. **Indemnity** – The Grantor covenants to and does hereby indemnify and save harmless the District, its elected officials, officers, and employees at all times from all losses, damages, actions, suits, claims, demands, costs, expenses, fees and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the District are or may become liable, incur or suffer by reason of any injury to person (including death) or loss or damage to property or economic loss arising directly or indirectly from a breach or non-performance by the Grantor of its covenants or obligations in this Agreement, or arising directly or indirectly, or from any wrongful act, omission or negligence of the Grantor in, on, around and about the Land.

9. **References** – Every reference to a party is deemed to include the heirs, executors, administrators, personal representatives, successors, assigns, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows.

10. **Entire Agreement** – No amendment of this agreement, is valid or binding unless in writing and executed by the parties.

11. **Interpretation** – In this Agreement:

    (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;

    (b) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;

    (c) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers.

12. **Interest In Lands and Enurement** – The covenants in this agreement run with the Land and each and every part into which the Land may be subdivided by any means (including by subdivision plan, reference or explanatory plan, strata plan, bare land strata plan or lease). This agreement enures to the benefit of and is binding on the parties notwithstanding any rule of law or equity to the contrary.

Execution - As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement by executing Part 1 of the *Land Title Act* Form C to which this Covenant is attached and which forms part of this Covenant.

END OF DOCUMENT

District of Metchosin

Minutes
In Camera Council Meeting
October 25, 2021at 11:00 a.m.
Metchosin Municipal Hall
Council Chambers

Present: Mayor Ranns in the Chair, Councillors Kahakauwila, MacKinnon, Epp and Little. Also present was L. Urlacher, CAO and T. Van Swieten, Deputy Corporate Officer

The meeting was called to order at 11:00 a.m.

12(3)(b) [redacted]

a) Disposition of Greenspace

Council discussed the potential sale of the 113 acres buffer/greenspace to the Capital Regional District Board (CRD), including:

- Mayor Ranns's provided the draft agreement to Beecher Bay's lawyer for comment
- Security of greenspace and conservation covenant
- Section 4.2(b) needs to be removed regarding fettering a future Board
- [redacted] FIPPA s. 17(1)(e)
- Third party appraisal value as parkland
- Generating revenue by the sale of the greenspace
- Costs to maintain the greenspace if Metchosin keeps it; work that will need to happen before opening the area to the public
- Public enquiries as to "when" area will be open, public already using the area
- Public consultation and process for selling the greenspace

FIPPA s. 16(1)(c) [redacted]

Moved and Seconded by Councillors MacKinnon and Kahakauwila that Council recess the meeting at 12:00 p.m. to reconvene at 5:00 p.m.

Carried

Moved and Seconded by Councillors MacKinnon and Kahakauwila to reconvene the meting at 5:00 p.m.

Carried

Staff presented the Sc'ianew Indigenous Protected Area Project – Mary Hill Standstill Agreement and gave a brief overview of the agreement and a timeline of when it can go public.

Council continued their discussion regarding the disposition of Greenspace including the following:

- CRD agreed to remove Section 4.2(b) from the agreement
- Effect this is having on the Neild Road residents
- Getting a second third party assessment done on the property
- Timing is wrong
- Placing "no entry" signs on the greenspace buffer property

Moved and Seconded by Councillors Kahakauwila and Epp that Council not enter into the Purchase Agreement with the Capital Regional District.

Carried

12(3)(b)



12(3)(b)

[redacted]

7. Adjournment

Moved and Seconded by Councillors MacKinnon and Kahakauwila that Council adjourn the In Camera portion of the Council meeting at 6:10 p.m.

Carried

Certified Correct

Mayor

Corporate Officer