



CORPORATION OF THE CITY OF VERNON

AFFORDABLE HOUSING ADVISORY COMMITTEE

THURSDAY, DECEMBER 5, 2019 @ 4 P.M.

OKANAGAN LAKE ROOM

A G E N D A

1) ADOPTION OF AGENDA

2) ADOPTION OF MINUTES

April 11, 2019 (attached)

3) UNFINISHED BUSINESS:

a)

4) NEW BUSINESS:

a) Housing Agreement for 4005 Pleasant Valley Road (attached)

b) Housing Agreement for 3610 25th Avenue (attached)

5) INFORMATION ITEMS:

6) DATE OF NEXT MEETING:

The next meeting is to be announced.

7) ADJOURNMENT



THE CORPORATION OF THE CITY OF VERNON

MINUTES OF

THE AFFORDABLE HOUSING ADVISORY COMMITTEE

THURSDAY, APRIL 11, 2019

PRESENT: VOTING

Councillor Kelly Fehr, Chair
Councillor Kari Gares, Vice-Chair
Jake Russell, Community at Large representative
Annette Sharkey, Social Planning Council
Lianne Longdo, Community at Large representative
Nanette Drobot, BC Housing
Brad Stinn, Building representative

NON-VOTING

Councillor Paul Britton, City of Armstrong

ABSENT: Glory Westwell, Habitat for Humanity
Russ Balance, Interior Health Authority

STAFF: Craig Broderick, Manager, Current Planning
Natasha Kositsin, Legislative Committee Clerk

ORDER

The Chair called the meeting to order at 4:04 p.m.

**ADOPTION OF
AGENDA**

Moved by Councillor Gares, seconded by Nanette Drobot:

THAT the agenda for Thursday, April 11, 2019 for the
Affordable Housing Advisory Committee meeting
be adopted.

CARRIED.

**ADOPTION OF
MINUTES**

Moved by Councillor Gares, seconded by Annette Sharkey:

THAT the minutes of the March 14, 2019 Affordable
Housing Advisory Committee meeting be adopted.

CARRIED.

UNFINISHED BUSINESS:

**UPDATE ON THE
DISCUSSION ON
VERNON HOUSING
AND
HOMELESSNESS
STRATEGIES**

The Committee reviewed the update provided at last meeting from Matt Thomson of Urban Matters to the Attainable Housing and Homelessness Strategy and provided the following feedback:

- Affordable Housing Advisory Committee won't meet for a couple of months till Council has a chance to look over the report
- Partners in Action will be reviewing the homelessness section of the report to evaluate which recommendations they have the capacity to take on

Attainable Housing:

Investing:

- Hesperia and Highlands is an example of land that is designated for Attainable Housing
- PV Road- City owns the land but in partnership with BC Housing to build what the City wants on that land to keep the costs low for affordable housing
- N&T on 48th for example there is a Housing Agreement that has to stay as rentals for a period of time
- Developing in required land for BC Housing not necessarily for City Real Estate

Inclusion Zoning Contribution:

- Most developers do not want to get into this as it is too much management on their part

Explore Incentives (grant programs)

- To promote Rental Housing grants and Tax Incentive for developing in certain areas

Interest Capital Grants

- Council concerned where these funds would come from

Senior Government

- To ensure a good working relationship with BC Housing
- Applying to UBCM for housing needs assessment

Short Term Rentals

- Staff would like to see this happen

DCC Rebate

- Good incentive
- Done per square footage – smaller the unit the less DCC rebate
- We do not charge DCC to BC Housing (pools from gaming fund)
- Rental housing grant reduces DCC charge – depends on how many apply

Explore parking requirements on Non-profit

- o Reviewing parking standards in the downtown core
- o Increase for business and reduce for residential

Lockoffs:

- o A time-share unit that must be able to be divided into two distinct dwelling units, gives the owner to choose to rent out entire unit or split them in half and rent out both halves

Secondary Suites:

- o Incentives available to make them more accessible
- o DCC is not charged on secondary suites
- o Suites are not permanent as one owner may want to use whole house and another owner may want to rent out suite
- o You get more leverage on financing at the bank as the income will be more
- o Carriage homes is getting more popular but has to go to Council to approve height requirements

Infill rentals:

- o Financial incentives and the tools to encourage more infills
- o Strategic plan has included the downtown core
- o Hard to find developers that want to take this on

Explore Home Ownership:

- o Tiny Homes or Carriage Homes that can be put on an existing land
- o Some in process of being built on 20th Street - studios that will be tiny
- o People are starting to gravitate to smaller homes

Public Education:

- o Requires a grant
- o Develops outreach support
- o Promoting to our community what programs we have and who has access to them

NEW BUSINESS:

**SENIOR (65+)
COMMITTEE
POSITION**

The Affordable Housing Committee discussed the Senior (65+) Committee Position and provided the following input:

- Charles Wills resigned
- Advertisement for new position

**UPDATE 1970
CHANGES TO**

The Committee reviewed the update provided at last meeting to the 1970 changes to Federal Income Tax and provided the following input:

**FEDERAL INCOME
TAX**

- Was put forward to UBCM 2 years ago
- Federal Government is reviewing to see if this can be brought back
- Would like to see if can be done Provincially instead of Federally

INFORMATION ITEMS:

NEXT MEETING

The next meeting is tentative

ADJOURNMENT

The meeting adjourned at 4:55 p.m.

CERTIFIED CORRECT:

_____Chair

PART 2 – TERMS OF INSTRUMENT

HOUSING AGREEMENT (AFFORDABLE HOUSING)

THIS AGREEMENT dated for reference October 31, 2019.

BETWEEN:

VERNON & DISTRICT COMMUNITY LAND TRUST SOCIETY (S0052650)
3105 33rd Street,
Vernon, British Columbia V1T 9P7

(the “**Owner**”)

AND

THE CITY OF VERNON
3400 - 30th Street
Vernon, British Columbia, V1T 5E6

(the “**City**”)

Background

- A. The City is the registered owner of the Lands and has leased the Lands to the Owner pursuant to a lease registered against title to the Lands under No. [REDACTED] (the “**Lease**”);
- B. Pursuant to the Lease, the Owner has a registered leasehold interest in the Lands (the “**Leasehold Interest**”);
- C. The Owner wishes to develop the Lands to construct three Buildings each containing four ground-oriented Dwellings, each with individual entrances, all used to provide affordable rental housing, together with parking, landscaping, servicing and amenities (the “**Development**”);
- D. Section 219 of the *Lands Title Act* permits the registration of a covenant of a negative or positive nature in favour of the City in respect of the use of land or construction on land;
- E. Section 483 of the *Local Government Act* permits the City, by bylaw, to enter into an agreement in respect to the provision, tenure, management and operation of affordable housing; and
- F. The Owner and the City wish to enter into this Agreement to provide for affordable rental housing on the terms and conditions set out in this Agreement, which is both a covenant under Section 219 of the *Lands Title Act* and a housing agreement under Section 483 of the *Local Government Act*,

Terms of Agreement

In consideration of good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration for the promises exchanged below, the parties covenant and agree as follows:

DEFINITIONS AND INTERPRETATION

1. In this Agreement,
 - (a) **"Affordable Housing Unit"** means a Dwelling in a Building reserved for use as affordable rental accommodation in accordance with this Agreement;
 - (b) **"Affordable Rent"** means rent payment amount not exceeding 30% of Household annual income of the Eligible Tenant for the year the tenancy is entered into;
 - (c) **"Building"** a building constructed on the Lands from time to time;
 - (d) **"CPI"** means the All-Items Consumer Price Index for British Columbia, published from time to time by Statistics Canada, or its successor in function;
 - (e) **"Daily Amount"** means \$100.00 per day as of January 1, 2019 adjusted thereafter by an amount determined by multiplying \$100.00 by the percentage change in the CPI from January 1, 2019 to January 1 of the year that a written notice is delivered to the Owner by the City pursuant to section 25;
 - (f) **"Development"** has the meaning set out in Recital D;
 - (g) **"Dwelling"** means accommodation providing sleeping, washrooms, and a kitchen intended for residential use, and used or intended to be used permanently or semi-permanently for one Household;
 - (h) **"Eligible Tenant"** means a Household occupying an Affordable Housing Unit under a Tenancy Agreement, the eligibility of which Household has been determined pursuant to section 9;
 - (i) **"General Instrument"** means the Form C under the Lands Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Leasehold Interest to which these express charge terms are attached;
 - (j) **"Household"** means:
 - (i) a person;
 - (ii) two or more persons related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling as a single household using common cooking facilities;

- (iii) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (iv) a combination of the above, provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one housekeeper or nanny;

- (k) **“Lands”** means those lands and premises legally described as: Parcel Identifier 012-576-760, Part Lot 20 (plan B3444) section 2 Township 8 Osoyoos Division Yale District Plan 474;
- (l) **“Lease”** has the meaning set out in Recital B;
- (m) **“Leasehold Interest”** has the meaning set out in Recital C;
- (n) **“Prime Rate”** means the annual rate of interest, expressed as a percentage, used as a reference rate by the Royal Bank of Canada at its main branch in Vernon, British Columbia for Canadian dollar loans and designated by the Royal Bank of Canada from time to time; and
- (o) **“Tenancy Agreement”** means a tenancy agreement pursuant to the *Residential Tenancy Act*, granting rights to occupancy an Affordable Housing Unit for a term initially not less than one year, with an option to continue on a month to month basis at the tenant’s request (assuming the tenant is not in default of the agreement).

2. In this Agreement,

- (a) any reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) any reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) any reference to any enactment is a reference to that enactment as consolidated revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) the provisions of Section 25 of the *Interpretation Act* with respect to the calculation of time apply;

- (g) time is of the essence of this Agreement;
 - (h) all provisions are to be interpreted as always speaking;
 - (i) any reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receiver;
 - (j) any reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the same case may be, unless otherwise expressly provided; and
 - (k) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.
3. This Agreement, and any documents signed by the Owner contemplated by this Agreement, represents the whole agreement between the City and the Owner respecting the use and occupation of the Affordable Housing Units, and there are no warranties, representations, conditions or collateral agreements made by either party except as set out in the Agreement.
 4. If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
 5. The laws of British Columbia will apply to this Agreement and all statutes referred to in this Agreement are enactments of the Province of British Columbia. Without limiting the foregoing, in the event of any conflict between any provision of this Agreement and the *Residential Tenancy Act*, this Agreement is without effect to the extent of the conflict.
 6. The Owner will do everything necessary to ensure this Agreement is registered against the Leasehold Interest in priority to all financial charges and encumbrances which may have been registered against the Leasehold Interest, excepting those specifically approved in writing by the City or in favour of the City.
 7. the Owner acknowledges the City must file a notice under Section 483(5) of the *Local Government Act* against the title to the Lands.

DESIGNATION OF AFFORDABLE HOUSING UNITS

8. All Dwellings contained in the Development from time to time will be used only as Affordable Housing Units for Eligible Tenants at Affordable Rent.

ELIGIBILITY OF TENANTS

9. The Owner will determine if a prospective tenant is eligible to rent the Affordable Housing Units based on the following formula:
 - (a) determine that the prospective tenant's median pre-tax Household income is equal to or below median pre-tax Household income for the City of Vernon, as most recently published by Statistics Canada; and
 - (b) calculate 30% of the before-tax Household income of the prospective tenant (to determine Affordable Rent).

In determining prospective tenant's eligibility, the Owner or its rental agent, so long as it acts honestly and in good faith, is entitled to rely on all information provided by the prospective tenant and the Owner will have no liability if the prospective tenant intentionally or unintentionally provides any incorrect information.
10. The Owner will periodically update the financial circumstances of the tenant once the Tenancy Agreement is signed.
11. The Owner will not rent Affordable Housing Units to any Household that does not meet the tenant eligibility criteria in section 9.

USE AND OCCUPANCY OF RENTAL HOUSING UNITS

12. The Owner will not lease, rent, license or permit occupancy of an Affordable Housing Unit except as follows:
 - (a) to an Eligible Tenant;
 - (b) at Affordable Rent;
 - (c) as a permanent residence; and
 - (d) pursuant to a Tenancy Agreement.
 - (e) to residents of Vernon residing in the City for the past twelve month or more.
13. The Owner will include in the Tenancy Agreement a clause that prohibits the Tenancy Agreement from being assigned and the Affordable Housing Units from being sublet.
14. The Tenancy Agreement will identify all occupants of the Affordable Housing Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing in the Affordable Housing Unit for more than 30 consecutive days or more than 45 days total in any calendar year.
15. The Owner will deliver a certified true copy of the Tenancy Agreement to the City upon request.

16. The Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement if one or more of the following occurs:
 - (a) the tenant is not an Eligible Tenant;
 - (b) the income of the Eligible Tenant rises above the eligibility criteria in section 9;
 - (c) the Affordable Housing Unit is occupied by a number of occupants that exceeds the number of individuals that the City's building inspector determines may reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City;
 - (d) the Affordable Housing Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of rent;
 - (e) the Affordable Housing Units is sublet; or
 - (f) the Tenancy Agreement is assigned.
17. The Owner will not itself occupy any of the Affordable Housing Units.
18. The Owner will not charge rent higher than Affordable Rent for the use of an Affordable Housing Unit.
19. The Owner will ensure that the number of individuals who permanently reside in an Affordable Housing Unit must be equal to or less than the number of individuals the City's building inspector determines may reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City.

MANAGEMENT AND OPERATION

20. The Owner will furnish good and efficient management and operation of the Development and the Affordable Housing Units and will permit representatives of the City to inspect the Development and the Affordable Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.
21. The Owner will maintain the Development and the Affordable Housing Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands.
22. The Owner will not assign or delegate management and operation of the Affordable Housing Units to any entity, except with the prior written consent of the City. In considering whether to provide consent, the City will be entitled to consider (without being exhaustive) whether the proposed entity is a society or a non-profit organization experienced in providing affordable housing.

CITY INQUIRIES AND INSPECTIONS

23. At the request of the City, the Owner will deliver to the City:
 - (a) such supporting documents, including a statutory declaration sworn by a tenant, as the City may reasonably require confirming that a tenant is an Eligible Tenant under this Agreement; and
 - (b) a report in writing confirming that all Affordable Housing Units that are rented at the time are being rented in accordance with this Agreement, together with such other information as may be reasonably requested by the City from time to time.
24. The Owner hereby irrevocably authorizes the City to make such inquiries as the City reasonably considers necessary in order to confirm the Owner is complying with this Agreement.
25. The Owner will permit representatives of the City to inspect the Development and the Affordable Housing Units for compliance with this Agreement at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.

DEFAULT AND REMEDIES

26. In addition to any other remedies available to the City under this Agreement or at law or equity, if an Affordable Housing Unit is used or occupied in breach of this Agreement the Owner will pay to the City the Daily Amount for every day that the breach continues after 30 days written notice from the City to the Owner stating the particulars of the breach or, if such breach cannot, using reasonable efforts, be remedied within 30 days, such longer period as may reasonably be required to remedy such breach. The Daily Amount will be increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CPI during the immediately preceding calendar year. The Daily Amount is due and payable immediately upon receipt by the Owner of an invoice from the City for the same.
27. The Owner acknowledges and agrees that damages are not an adequate remedy for breach of the covenants contained in this Agreement and that, in the event of any such breach, the City will be entitled to apply to a Court of competent jurisdiction for an order restraining and prohibiting the continuance of any such breach.
28. All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

SECTION 219 COVENANT

29. To the extent of the Leasehold Interest, the Owner hereby covenants and agrees with the City, as a covenant in favour of the City pursuant to Section 219 of the *Land Title Act*, it being the intention and agreement of the Owner that the provisions in this Agreement be annexed to, and run with and be a charge upon the Leasehold Interest, that:

- (a) the Lands will not be developed and no building or structure will be constructed or used on the Lands except to construct the Development;
 - (b) the Lands will be built and used only in strict compliance with the terms and conditions of this Agreement;
 - (c) the Lands will not be subdivided pursuant to the *Land Title Act*, the *Strata Property Act*, or by means of a leasehold subdivision, and will not be organized as “cooperative interests” or “shared interest in land” as defined in the *Real Estate Development Marketing Act*; and
 - (d) except for transfer of each Affordable Housing Unit pursuant to a Tenancy Agreement, interest in the Affordable Housing Units will not be transferred separately from each other, such that all Affordable Housing Units will be owned by the same Owner at all times.
30. As an indemnity pursuant to section 219(6) of the *Land Title Act*, to the extent of the Leasehold Interest, the Owner will indemnify and save harmless the City and each of its elected officials, officers, directors, and agents, and their respective heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:
- (a) any act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
 - (b) the Owner’s construction, maintenance, ownership, lease, operation, management or financing of the Lands, the Development or any Affordable Housing Unit;
 - (c) any breach of this Agreement by the Owner; and
 - (d) the exercise by the City of any of its rights under this Agreement.
31. The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, and agents, and its and their respective heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of or which would or could not occur but for:
- (a) any act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
 - (b) the Owner’s construction, maintenance, ownership, lease, operation, management or financing of the Lands, the Development or any Affordable Housing Unit;
 - (c) any breach of this Agreement by the Owner; and
 - (d) the exercise by the City of any of its rights under this Agreement.

MISCELLANEOUS

32. The Owner acknowledges and agrees that this Agreement constitutes a covenant under Section 219 of the *Land Title Act* and a housing agreement entered into under Section 483 of the *Local Government Act* that will be registered and filed against the Leasehold Interest.
33. This Agreement does not:
 - (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
 - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.
34. The Owner and the City agree that:
 - (a) this Agreement is entered into only for the benefit of the City;
 - (b) this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Lands, the Development or any Affordable Housing Unit; and
 - (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
35. Any notice, request or demand provided for in this Agreement will be in writing and sufficiently given if served personally upon the party for whom such notice was intended, or, if mailed by registered mail to the addresses set out above or to such other address as a party may notify the other in accordance with this section. All notices given by mail under this section will be deemed to be received three days following its posting, if posted at Vernon, British Columbia, provided that after the time of posting there will be any slowdown, strike or labour dispute which might affect the delivery of notice by mail, then such notice will only be effective if actually delivered. Either party may, at any time, give notice in writing to the other of any change of address and thereafter all notices will be mailed to the new address so given.
36. This Agreement will enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, representatives, successors and assigns.
37. Each of the parties will, on demand by another party execute and deliver or cause to be executed and delivered all such further documents and instruments and do all such further acts and things as the other may reasonably require to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.

38. This Agreement runs with the Leasehold Interest.
39. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered holder of the Leasehold Interest.
40. Nothing in this Agreement will constitute the Owner as the agent, joint venture, or partner of the City or give the Owner any authority to bind the City in any way.
41. By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the date first written above on one or more pages of the General Instrument.

HOUSING AGREEMENT - RENTAL HOUSING UNITS

THIS HOUSING AGREEMENT dated for reference.

BETWEEN:

CANADIAN MENTAL HEALTH ASSOCIATION VERNON AND DISTRICT BRANCH
(the “Owner”)

AND

THE CORPORATION OF THE CITY OF VERNON
3400 - 30th Street
Vernon, British Columbia, V1T 5E6

(the “City”)

Background

- DRAFT**
- A. Section 219 of the *Lands Title Act* permits the registration of a covenant of a negative or positive nature in favour of the City in respect of the use of land or construction on land.
 - B. The Owner is the registered owner of the Lands.
 - C. The Owner and the City wish to enter into this Agreement to provide for rental housing on the terms and conditions set out in this Agreement, which is both a covenant under Section 219 of the *Lands Title Act* and a housing agreement under Section 483 of the *Local Government Act*.
 - D. Under this Agreement, the Owner must provide 29 rental housing units commencing on the date Occupancy is granted for the Rental Housing Units.
 - E. The Council of the City has or will enact a bylaw under section 483 of the *Local Government Act* and section 219 of the *Lands Title Act* to enter into this covenant and Agreement

Terms of Agreement

In consideration of good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration for the promises exchanged below, the parties covenant and agree as follows:

PART I – DEFINITIONS AND INTERPRETATION

1. In this Agreement,
 - (a) **“CPI”** means the All-Items Consumer Price Index for British Columbia, published from time to time by Statistics Canada, or its successor in function;
 - (b) **“Daily Amount”** means \$100.00 per day as of January 1, 2017 adjusted thereafter by an amount determined by multiplying \$100.00 by the percentage change in the CPI from January 1, 2017 to January 1 of the year that a written notice is delivered to the owner by the City pursuant to section 16;
 - (c) **“Grant”** means a rental housing grant of \$129,000.00 which has been determined in accordance with the City’s *Rental Housing Incentive Grant Policy*;
 - (d) **“Household”** means Household as defined in the City of Vernon Zoning Bylaw No. 5000, as amended from time to time;
 - (e) **“General Instrument”** means the Form C under the Lands Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Lands to which these express charge terms are attached;
 - (f) **“Interest”** means the property interest of the Owner in a Rental Housing Unit;
 - (g) **“Lands”** means those lands and premises located at ##### Avenue, Vernon, British Columbia and which are legally described as:

Parcel Identifier: ###
Lot #, Section ##, Township #8, ODYD, Plan EPP#####

and includes any strata lot (fee simple or leasehold) into which the Lands may be Subdivided;
 - (h) **“Occupancy Date”** means the date that an occupancy permit is issued by the City in respect of a Rental Housing Unit;
 - (i) **“Prime Rate”** means the annual rate of interest, expressed as a percentage, used as a reference rate by the Royal Bank of Canada at its main branch in Vernon, British Columbia for Canadian dollar loans and designated by the Royal Bank of Canada from time to time;
 - (j) **“Rental Housing Units”** means the housing units reserved for use as rental accommodation in accordance with this Agreement, and **“Rental Housing Unit”** means any one of them’
 - (k) **“Subdivide”** means to divide, apportion, consolidate or subdivide the Lands, or the ownership or right to possession or occupation of the Lands into two or more

lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Lands Title Act*, the *Strata Property Act*, or

DRAFT

otherwise, and includes the creation, conversion, organization or development of “cooperative units” or shared interests in land as defined in the *Real Estate Act*;

- (l) **“Tenancy Agreement”** means a tenancy agreement, lease, licence or other agreement granting rights to occupancy a Rental Housing Unit; and
- (m) **“Tenant”** means an occupant of a Rental Housing Unit under a Tenancy Agreement.

2. In this Agreement,

- (a) any reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) any reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) any reference to any enactment is a reference to that enactment as consolidated revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) the provisions of Section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) time is of the essence of this Agreement;
- (h) all provisions are to be interpreted as always speaking;
- (i) any reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receiver, and wherever the context so requires, a reference to a “party” also includes Eligible Residents, agents, officers and invitees of the party;
- (j) any reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the same case may be, unless otherwise expressly provided; and
- (k) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.

3. This Agreement, and any documents signed by the Owner contemplated by this Agreement, represents the whole agreement between the City and the Owner respecting the use and occupation of the Rental Housing Units, and there are no warranties,

representations, conditions or collateral agreements made by either party except as set out in the Agreement.

4. If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
5. Unless the context otherwise requires, the laws of British Columbia will apply to this Agreement and all statutes referred to in this Agreement are enactments of the Province of British Columbia. Without limiting the foregoing, in the event of any conflict between any provision of this Agreement and the *Residential Tenancy Act*, this Agreement is without effect to the extent of the conflict.

PART II – USE OF LAND AND CONSTRUCTION OF RENTAL HOUSING UNITS

6. The Owner covenants and agrees with the City as follows:
 - (a) the Lands will not be developed and no building or structure will be constructed or used on the Lands unless, as part of the development, construction and use of any such building or structure, the Owner constructs and maintains at least ##### Rental Housing Units;
 - (b) the Owner must meet or exceed the construction standards for Rental Housing Units as specified by the City in its bylaws and any required building permit issued by the City in respect of the development of the Lands; and
 - (c) the Owner will make all reasonable efforts, at the Owner's expense, to ensure this Agreement, if required by the City, will be registered against title to the Lands in priority to all financial charges and encumbrances which may have been registered against title to the Lands, excepting those specifically approved in writing by the City or in favour of the City, and the Owner acknowledges the City must file a notice under Section 483(5) of the *Local Government Act* against the title to the Lands.
7. From and after the Occupancy Date and continuing thereafter until this Agreement is terminated in accordance with Part VI, the Rental Housing Units will always be used to provide and will be reserved for use as rental accommodation in accordance with this Agreement.

PART III – USE AND OCCUPANCY OF RENTAL HOUSING UNITS

8. The Owner agrees that each Rental Housing Unit may only be used as a permanent residence occupied by a Tenant. No Rental Housing Unit shall be occupied by the Owner. Notwithstanding the foregoing, the Owner may allow a resident caretaker, being an employee or contractor of the Owner, to reside in a Rental Housing Unit.

9. The Owner agrees that the number of individuals who permanently reside in the Rental Housing Unit must be equal to or less than the number of individuals the City's building inspector determines may reside in the Rental Housing Unit given the number and size of bedrooms in the Rental Housing Unit and in light of any relevant standards set by the City in any bylaws of the City.
10. The Owner hereby irrevocably authorizes the City to make such inquiries as it reasonably considers necessary in order to confirm the Owner is complying with this Agreement, and irrevocably authorizes and directs the recipient of the request for information from the City to provide such information to the City.
11. The Owner must not rent or lease any Rental Housing Unit except to a Tenant in accordance with this Agreement and the Rental Housing Unit will be used or occupied only pursuant to a Tenancy Agreement
12. The Owner covenants and agrees to provide to the City's Director of Community Development or his or her designate on the 1st day of February in each calendar year, a report in writing confirming that not less than 29 Dwelling Units are being rented in accordance with this Agreement, together with such other information as may be reasonably requested by the City from time to time.

PART IV – DEMOLITION OF RENTAL HOUSING UNIT

13. The Owner will not demolish a Rental Housing Unit unless:
 - (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Rental Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
 - (b) the building in which a Rental Housing Unit is contained is damaged or destroyed, to the extent of 40% or more of their value above its foundations, as determined by the City, acting reasonably; and
 - (c) a demolition permit for the Rental Housing Unit has been issued by the City and the Rental Housing Unit is to be demolished in accordance with that permit.
14. Following demolition of a Rental Housing Unit, the Owner will use and occupy any replacement Rental Housing Unit in compliance with this Housing Agreement, and this Agreement will apply to the construction of any replacement Rental Housing Unit to the same extent and in the same manner as the original Rental Housing Unit. The replacement Rental Housing Unit must be approved by the City as a Rental Housing Unit in accordance with this Agreement.

PART V – DEFAULT AND REMEDIES

15. The Owner agrees that, in addition to any other remedies available to the City under this Agreement or at law or equity, if the Owner fails to maintain the number of Rental Housing Units required by 6(a) the Owner will pay to the City the Daily Amount for every day that the breach continues after 30 days written notice from the City to the Owner stating the particulars of the breach or, if such breach cannot, using reasonable efforts, be remedied within 30 days, such longer period as may reasonably be required to remedy such breach. The Daily Amount shall be increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CPI during the immediately preceding calendar year. The Daily Amount is due and payable immediately upon receipt by the Owner of an invoice from the City for the same.
16. The Owner acknowledges and agrees that damages are not an adequate remedy for breach of the covenants contained in this Agreement and that the City, in the event of any such breach, will and shall be entitled to apply to a Court of competent jurisdiction for an Order restraining and prohibiting the continuance of any such breach.
17. All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar of different breach.

PART VI - PAYMENT AND TERMINATION OF AGREEMENT

18. Upon registration in the Land Title Office of the covenant contemplated by this Agreement, the City will pay the Grant to the Owner.
19. Unless sooner terminated pursuant to section 20, this Agreement shall expire on the date that is 20 years after the Occupancy Date.
20. Provided the Owner is not then in default under the terms of this Agreement, the Owner may, upon not less than three months written notice, terminate this Agreement upon payment to the City of an amount equivalent to the unamortized portion of the Grant, plus interest translated at the Prime Rate.
21. Upon the expiration or sooner termination of this Agreement, at the request of the Owner and, if applicable, upon payment by the Owner to the City of the amount contemplated by section 20, the City will sign a discharge of the covenant contemplated by this Agreement (the “**Discharge**”) prepared by and at the expense of the Owner. The City will have a reasonable time to sign the Discharge and return it to the Owner. The Owner will be responsible for registering the Discharge at the Land Title Office.

PART VII – MISCELLANEOUS

22. The Owner acknowledges and agrees that:
- (a) this Agreement constitutes a covenant under Section 219 of the *Land Title Act* and a housing agreement entered into under Section 483 of the *Local Government Act*;
 - (b) where a Rental Housing Unit is a separate legal parcel, the City may register this Agreement in the appropriate Lands Title Office as a covenant and file a notice of housing agreement under Section 483 of the *Local Government Act* in the appropriate Land Title Office against title to the Rental Housing Unit; and
 - (c) where Rental Housing Units are not separate legal parcels, or have not yet been constructed, or where the land has not yet been Subdivided to create the Rental Housing Units, the City may register this Agreement in the Land Title Office as a covenant must file a notice of housing agreement under Section 483 of the *Local Government Act* in the appropriate Land Title Office against title to the Lands.
23. The Owner covenants and agrees that it will furnish good and efficient management of the Rental Housing Units and will permit representatives of the City to inspect the Rental Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Rental Housing Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands.
24. The Owner will indemnify and save harmless the City and each of its elected officials, officers, directors, and agents, and their respective heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:
- (a) any act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
 - (b) the Owner's construction, maintenance, ownership, lease, operation, management or financing of the Lands or any Rental Housing Unit;
 - (c) without limitation, any breach of this Agreement by the Owner.
25. The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, and agents, and its and their respective heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of or which would or could not occur but for the:

- (a) ownership, lease, operation or management of the Lands or any Rental Housing Unit under this Agreement; and
 - (b) the exercise by the City of any of its rights under this Agreement or an enactment.
26. This Agreement does not:
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
 - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.
27. The Owner and the City agree:
- (a) this Agreement is entered into only for the benefit of the City;
 - (b) this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Property, the Lands or any Rental Housing Unit; and
 - (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
28. This Agreement shall be binding upon all strata corporations created upon the strata title subdivision of the Lands or any subdivided parcel of the Lands.
29. Where the City is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.
30. Any notice, request or demand provided for in this Agreement shall be in writing and sufficiently given if served personally upon the party for whom such notice was intended, or, if mailed by registered mail to the addresses set out above or to such other address as a party may notify the other in accordance with this section. All notices given by mail under this section shall be deemed to be received three days following its posting, if posted at Vernon, British Columbia, provided that after the time of posting there shall be any slowdown, strike or labour dispute which might affect the delivery of notice by mail, then such notice shall only be effective if actually delivered. Either party may, at any time,

give notice in writing to the other of any change of address and thereafter all notices shall be mailed to the new address so given.

31. This Agreement shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, representatives, successors and assigns.
32. Each of the parties will, on demand by another party execute and deliver or cause to be executed and delivered all such further documents and instruments and do all such further acts and things as the other may, either before or after the Occupancy Date, reasonably require to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.
33. This Agreement runs with the Lands.
34. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.
35. Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
36. By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the date first written above on one or more pages of the General Instrument.