

# City of Kelowna

## Regular Council Meeting

### AGENDA



Monday, December 2, 2019

1:30 pm

Council Chamber

City Hall, 1435 Water Street

Pages

#### 1. Call to Order

I would like to acknowledge that we are gathered today on the traditional, ancestral, unceded territory of the syilx/Okanagan people.

This meeting is open to the public and all representations to Council form part of the public record. A live audio and video feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

#### 2. Confirmation of Minutes

4 - 9

Regular PM Meeting - November 25, 2019

#### 3. Development Application Reports & Related Bylaws

##### 3.1 Hunter Road 2280-2290 - LUC19-0003 - Z19-0111 - Hillahan Holdings Inc. & Go West Investments Inc.

10 - 16

To consider a Land Use Contract discharge and rezoning to C3 – Community Commercial to accommodate a range of commercial services, including dental health services, within an existing building.

##### 3.2 Hunter Rd 2280-2290, BL11964 (LUC19-0003) - Hillahan Holdings Inc. & Go West Investments Inc.

17 - 17

To give first reading to Bylaw No. 11964 in order to discharge the Land Use Contract registered against the title of the subject property.

##### 3.3 Hunter Rd 2280-2290, BL11965 (Z19-0111) - Hillahan Holdings Inc. & Go West Investments Inc.

18 - 18

To give Bylaw No. 11965 first reading in order to rezone the subject property from the A1 - Agriculture 1 zone to the C3 - Community Commercial zone.

#### **4. Non-Development Reports & Related Bylaws**

##### **4.1 Community Energy Retrofit Strategy - Options Analysis 19 - 70**

To inform Council on options for a Community Energy Retrofit Strategy and for Council to direct staff to move forward with or focus on several of the proposed options.

##### **4.2 Fall 2019 Rental Housing Agreement Bylaws 71 - 72**

To authorize the City to enter into a Housing Agreement with Mission Group Homes Ltd., Whitworth Holdings Ltd. and Culos Development Inc. for purpose-built rental housing projects that are pursuing rental housing incentives.

##### **4.3 West Ave 454-464, BL11955 - Housing Agreement Authorization Bylaw - West Avenue - Mission Group Rentals Ltd., Inc No. BC1151526 73 - 80**

To give Bylaw No. 11955 first, second and third readings in order to authorize the City of Kelowna to enter into a Housing Agreement with West Avenue - Mission Group Rentals Ltd., Inc No. BC1151526.

##### **4.4 Lakeshore Rd 4119, BL11956 - Housing Agreement Authorization Bylaw - Whitworth Holdings Ltd., Inc No. BC1059455 81 - 88**

To give Bylaw No. 11956 first, second and third readings in order to authorize the City of Kelowna to enter into a Housing Agreement with Whitworth Holdings Ltd., Inc No. BC1059455

##### **4.5 Sutherland Ave 1165, BL11958 - Housing Agreement Authorization Bylaw - Culos Development (1996) Inc., Inc. No. BC1099204 89 - 96**

To give Bylaw No. 11958 first, second and third readings in order to authorize the City of Kelowna to enter into a Housing Agreement with Culos Development (1996) Inc., Inc. No. BC1099204.

##### **4.6 Revitalization Tax Exemption Agreements – Fall 2019 97 - 165**

To bring forward six 10-year Revitalization Tax Exemption Agreements for multi-family housing projects in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

#### **5. Bylaws for Adoption (Non-Development Related)**

##### **5.1 BL11961 - Delegation of Authority to Enter into Agreements Bylaw No. 11961 166 - 167**

To adopt Bylaw No. 11961 in order to implement a new bylaw for delegation of authority for entering into Kelowna Airport (YLW) related agreements.

#### **6. Mayor and Councillor Items**

## 7. Termination



## City of Kelowna Regular Council Meeting Minutes

Date: Monday, November 25, 2019  
 Location: Council Chamber  
 City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors, Maxine DeHart\*, Ryan Donn, Gail Given, Charlie Hodge, Brad Sieben, Mohini Singh, Luke Stack and Loyal Wooldridge

Staff Present City Manager, Doug Gilchrist; City Clerk, Stephen Fleming, Deputy City Manager, Joe Creron\*; Divisional Director, Planning & Development Services, Ryan Smith\*; Urban Planning & Development Policy Manager, Laura Bentley\*; Senior Airport Finance & Corporate Services Manager, Shayne Drydal\*; Partnership Manager, Sandra Kochan\*; Long Range Policy Planning Manager, James Moore\*; Planner, Lauren Sanbrooks\*; Urban Forestry Technician, Tara Bergeson\*; Parks Services Manager, Blair Stewart\*; Water Operations Manager, Andy Weremy\*; Policy & Planning Department Manager, Danielle Noble-Brandt\*; Sustainability Coordinator, Tracy Guidi\*; Legislative Coordinator (Confidential), Arlene McClelland

Guests Curt T. Griffiths PhD and Nahanni Pollard, PhD

(\* Denotes partial attendance)

### 1. Call to Order

Mayor Basran called the meeting to order at 1:49 p.m.

I would like to acknowledge that we are gathered today on the traditional, ancestral, unceded territory of the syilx/Okanagan people.

Mayor Basran advised that the meeting is open to the public and all representations to Council form part of the public record. A live audio and video feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

### 2. Confirmation of Minutes

Moved By Councillor Donn/Seconded By Councillor Wooldridge

R1055/19/11/25 THAT the Minutes of the Regular Meetings of November 18, 2019 be confirmed as circulated.

Carried

### 3. Reports

#### 3.1 RCMP and Police Services Resource Plan

Staff:

- Introduced the Consultants Curt T. Griffiths PhD, Nahanni Pollard, PhD.
- Responded to questions from Council.

Consultants, Curt T. Griffiths PhD, Nahanni Pollard, PhD,

- Thanked all stakeholders that participated in the study.
- Displayed a PowerPoint Presentation summarizing the report highlights and recommendations.
- Responded to questions from Council.

Moved By Councillor DeHart/Seconded By Councillor Donn

**R1056/19/11/25** THAT the Griffiths and Pollard RCMP and Police Services Resource Review – Executive Summary dated November 2019 be received as information.

AND THAT staff report back to City Council in the new year with a strategy to deliver RCMP and Police Services needs over the next 5 years.

**Carried**

The City Manager left the meeting at 3:51 p.m.

Acting City Manager, Ryan Smith, took over at 3:51 p.m.

### 4. Development Application Reports & Related Bylaws

#### 4.1 Ellis St. 1095, Z19-0071 (BL11962) - BMK 140 Holdings Inc., Inc.No. BCo748760

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Moved By Councillor Stack/Seconded By Councillor Hodge

**R1057/19/11/25** THAT Rezoning Application No. Z19-0071 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lots 10, 11, 12, 13, 14 District Lot 139 ODYD Plan 6753, located at 1095 Ellis St., Kelowna, BC from the I4 – Central Industrial zone to the C7 – Central Business Commercial zone, be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Development Planning Department dated November 25, 2019.

**Carried**

#### 4.2 Ellis St. 1095, BL11962 (Z19-0071) - BMK 140 Holdings Inc., Inc. No. BCo748760

Moved By Councillor Given/Seconded By Councillor Wooldridge

**R1058/19/11/25** THAT Bylaw No. 11962 be read a first time.

**Carried**

#### 4.3 Highway 33 E 1583, Heritage Designation Addition Application - Kasmir Felix Domingas Sandana

Staff:

- Displayed a PowerPoint Presentation summarizing the application and providing rationale for the deferral of the application and responded to questions from Council

Moved By Councillor Hodge/Seconded By Councillor Stack

**R1059/19/11/25** THAT Council defer consideration of a request to add the subject property at 1583 Highway 33 E to the Kelowna Heritage Register;

AND THAT Council direct staff to bring back application HD19-0001 to an afternoon Council meeting once the outstanding legal issues pertaining to the property are resolved.

Carried

#### 5. Bylaws for Adoption (Development Related)

##### 5.1 Zoning Bylaw No. 8000 - Section 8 Parking & Loading Zoning Bylaw - Text Amendment Application BL11850 (TA18-0009) - City of Kelowna

Moved By Councillor Wooldridge/Seconded By Councillor Hodge

**R1060/19/11/25** THAT Bylaw No. 11850 be adopted.

Carried

##### 5.2 Eldorado Rd 509 - BL11938 (Z19-0069) - Judith Parsons

Moved By Councillor Hodge/Seconded By Councillor Wooldridge

**R1061/19/11/25** THAT Bylaw No. 11938 be adopted.

Carried

#### 6. Non-Development Reports & Related Bylaws

##### 6.1 Delegation of Authority - Airport Agreements

Staff:

- Provided an overview of the Delegation of Authority to enter into Airport related agreements.

Moved By Councillor Stack/Seconded By Councillor Singh

**R1062/19/11/25** THAT Council receives, for information, the Report from the Senior Airport Finance and Corporate Services Manager dated November 25, 2019, pertaining to implementation of a new bylaw for delegation of authority for entering into airport related agreements;

AND THAT Bylaw No. 11961, being the Airport Agreements Delegation of Authority Bylaw, be forwarded for reading consideration.

Carried

## 6.2 BL11961 - Delegation of Authority to Enter into Agreements Bylaw No. 11961

Moved By Councillor DeHart/Seconded By Councillor Stack

R1063/19/11/25 THAT Bylaw No. 11962 be read a first, second and third time.

Carried

## 6.3 Community Resiliency Investment (CRI) Program Funding 2020

Staff:

- Provided an overview of the grant application process for the community resiliency investment program.

Moved By Councillor Given/Seconded By Councillor Donn

R1064/19/11/25 THAT Council receives, for information, the November 25, 2019 report from the Urban Forestry Technician with respect to 2020 Community Resiliency Investment (CRI) Program funding;

AND THAT Council approves staff to apply for a grant from the CRI program to continue to support wildfire fuel mitigation;

AND FURTHER THAT upon confirmation of the grant award, the current Financial Plan will be amended to include the receipt of up to \$150,000 from the Community Resiliency Investment Program.

Carried

## 6.4 Poplar Point Pump Station Slope Stabilization - Budget adjustment Nov 14

Staff:

- Provided reasons for the budget transfer to the Poplar Point Pump Station Slope Stabilization operating budget.

Moved By Councillor Sieben/Seconded By Councillor Donn

R1065/19/11/25 THAT Council receives for information the report from the Water Operations Manager, regarding the Poplar Point Pump Station Slope Stabilization – Budget Transfer;

AND THAT the Financial Plan be amended to cancel the Flood Resilience of Water Sources Project and transfer these funds to the Water Utility operating budget: Poplar Point Pump Station Slope Stabilization Project to complete more critical works at the Poplar Point Pump Station.

Carried

## 6.5 Affordable Housing and Online Accommodation Platform Revenue

Staff:

- Provided a summary of the fund re-allocation and responded to questions from Council.

Councillor DeHart declared a conflict of interest as her employer collects the Municipal and Regional District Tax (MRDT) and left the meeting at 4:22 p.m.

Moved By Councillor Donn/Seconded By Councillor Given

**R1066/19/11/25** THAT Council receives, for information, the report from the Policy & Planning Department, dated November 25, 2019, with respect to affordable housing and revenue from online accommodation platforms (OAP);

AND THAT Council direct Staff to submit the necessary documentation to Destination BC in accordance with the recommendations outlined in the report from the Policy & Planning Department, dated November 25, 2019;

AND FURTHER THAT the 2019 financial plan be amended to include up to \$30,000 from the Public Works/Initiative reserve to support the joint tourism sector housing needs study.

**Carried**

Councillor Sieben – Opposed

## **6.6 Climate Action Plan Progress**

The City Manager returned to the meeting at 4:31 p.m.

Staff:

- Displayed a PowerPoint Presentation outlining the Climate Plan progress and emission reductions achieved to date and responded to questions from Council.

Councillor DeHart rejoined the meeting at 4:41 p.m.

Moved By Councillor Wooldridge/Seconded By Councillor Hodge

**R1067/19/11/25** THAT Council receives, for information, the report from Policy & Planning dated November 25, 2019, with respect to progress on the Community Climate Action Plan;

AND THAT Council directs staff to investigate the resources required to develop more ambitious community greenhouse gas reduction targets.

**Carried**

## **6.7 Progress on the Agriculture Plan**

Staff:

- Displayed a PowerPoint Presentation summarizing the implementation progress of the Agriculture Plan and responded to questions from Council.

Moved By Councillor Singh/Seconded By Councillor Donn

**R1068/19/11/25** THAT Council receives for information, the report from the Policy and Planning Department, dated November 25, 2019, with respect to progress on implementing the recommended actions in the Agriculture Plan.

**Carried**

## **7. Bylaws for Adoption (Non-Development Related)**

### **7.1 BL11743 - Road Closure Bylaw - Portion of Road Adjacent to Railway Ave**

Moved By Councillor Donn/Seconded By Councillor DeHart

**R1069/19/11/25** THAT Bylaw No. 11743 be adopted.

**Carried**

7.2 **BL11744 - Road Closure Bylaw - Portion of Graham Street**

Moved By Councillor DeHart/Seconded By Councillor Donn

R1070/19/11/25 THAT Bylaw No. 11744 be adopted.

Carried

8. **Mayor and Councillor Items**

There were no Councillor items.

9. **Termination**

This meeting was declared terminated at 4:59 p.m.

\_\_\_\_\_  
Mayor Basran

/acm

  
\_\_\_\_\_  
City Clerk

# REPORT TO COUNCIL



**Date:** December 2, 2019

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUC19-0003/Z19-0111

**Owner:** Hillahan Holdings Inc. & Go West Investments Inc.

**Address:** 2280-2290 Hunter Road

**Applicant:** Birte Decloux, Urban Options and Permitting

**Subject:** Land Use Contract Discharge (LUC77-1085) and Rezoning Application

**Existing OCP Designation:** Service Commercial

**Existing Zone:** A1 - Agriculture

**Proposed Zone:** C3 – Community Commercial

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## 1.0 Recommendation

THAT Application No. LUC19-0003 to discharge LUC77-1085 from Parcel A (KD82312) District Lot 125 Osoyoos Division Yale District, Plan 31272 located at 2280-2290 Hunter Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0111 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification Parcel A (KD82312) District Lot 125 Osoyoos Division Yale District, Plan 31272 located at 2280-2290 Hunter Road, Kelowna, BC from the A1 – Agriculture 1 zone to the C3 – Community Commercial zone be considered by Council;

AND THAT the Land Use Contract Discharge and Zone Amending Bylaws be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Attachment "A" attached to the Report from the Development Planning Department dated December 2<sup>nd</sup>, 2019;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure.

## 2.0 Purpose

To consider a Land Use Contract discharge and rezoning to C<sub>3</sub> – Community Commercial to accommodate a range of commercial services, including dental health services, within an existing building.

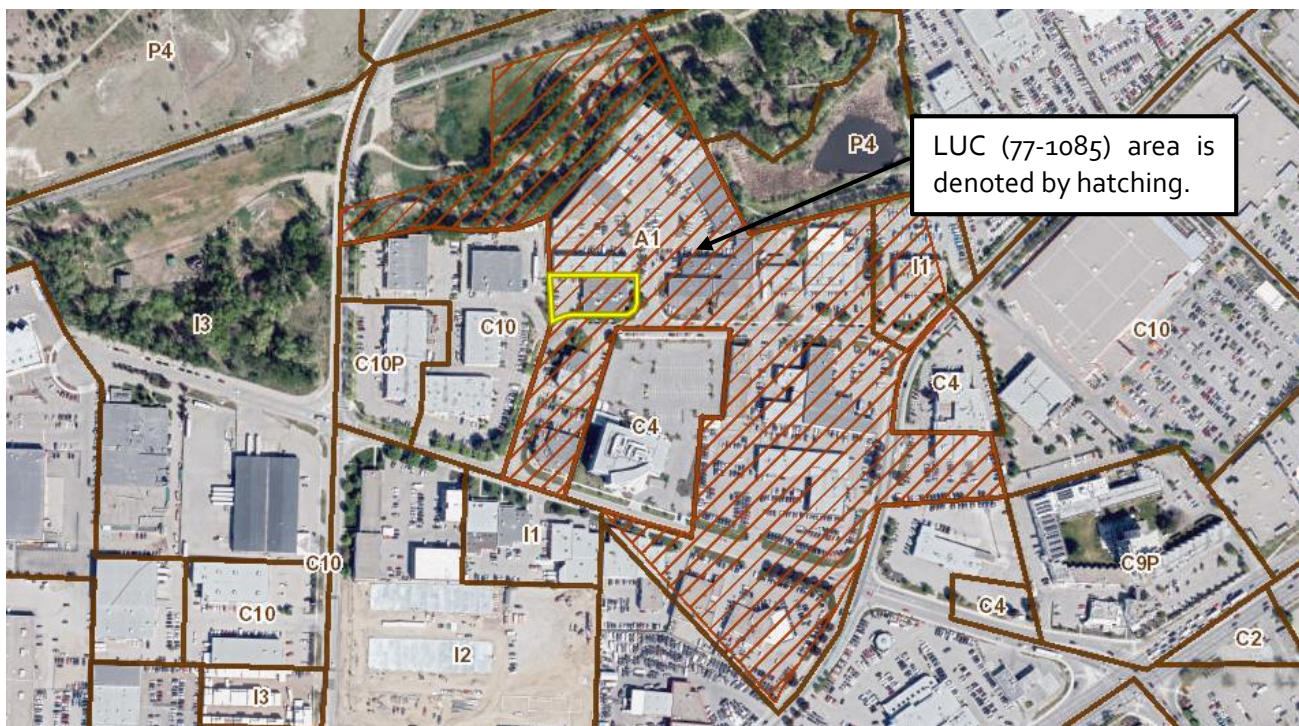
## 3.0 Development Planning

Development Planning Staff support the Land Use Contract (LUC) discharge and proposed rezoning to allow for community commercial use and the related dental health services proposed. The proposed land use is compatible with surrounding land uses and meets the intent of the Official Community Plan. The C<sub>3</sub> zone is also best to accommodate the existing uses on site which include a range of dental health services, production and training.

## 4.0 Proposal

### 4.1 Project Description

The current LUC affects twenty properties in the Hunter Road, Hunter Court and Leckie Road area and has varying restrictions based on the specific property and Schedules indicated within the LUC. The provisions of the LUC for the subject property do not allow for the Health Services use which includes dental health services. The underlying A<sub>1</sub> – Agriculture zone is not appropriate for the current or proposed land use.



In conformance with Council Policy No. 282, Staff will bring a bylaw terminating the Land Use Contract on the remaining adjacent parcel. This is a separate process from the discharge of an LUC, as termination eliminates the LUC one year after Council adoption (whereas a discharge is immediate).

### 4.2 Project Description

The applicant has proposed to rezone the subject property to allow for a range of dental health services. This includes the creation of dental restoration products and training/education of dental professionals in use of high-tech materials, treatments and processes. The uses will be carried out within the existing

building with no proposed changes to the currently developed property. Prior to moving forward with the rezoning application, the LUC must be discharged as it does not permit the proposed use.

#### 4.3 Site Context

The subject property is located at 2280-2290 Hunter Road, near the intersection of Leckie Road and Enterprise Way.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture	Commercial
East	A1 – Agriculture	Commercial
South	C4 – Urban Centre Commercial	Commercial
West	C10 – Service Commercial	Commercial

#### **Subject Property Map: 2280 – 2290 Hunter Road**



#### 5.0 **Current Development Policies**

##### 5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

**Council Policy No. 282.** Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts.

#### 6.0 **Technical Comments**

##### 6.1 Development Engineering Department

See Attachment 'A'.

## **7.0 Application Chronology**

Date of Application Received: August 2, 2019  
Date Public Consultation Completed: September 13, 2019

**Report prepared by:** Wesley Miles, Acting Community Planning and Development Manager  
**Reviewed by:** Laura Bentley, Urban Planning & Development Policy Manager  
**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

### **Attachments:**

Attachment 'A': Development Engineering Memo

**CITY OF KELOWNA**

**MEMORANDUM**

**Date:** September 5, 2019  
**File No.:** Z19-0111  
**To:** Community Planning (WM)  
**From:** Development Engineering Manager (JK)  
**Subject:** 2280-2290 Hunter Rd. A1 to C3 \_ LUC

The Development Engineering comments and requirements regarding this rezoning application are as follows:

**1) General**

- a) These are Development Engineering comments/requirements and are subject to the review and requirements from the Ministry of Transportation (MOTI) Infrastructure Branch.

**2) Domestic Water and Fire Protection**

- a) Property 2280-2290 is currently serviced with a 50mm-diameter water service. The developer's consulting mechanical engineer will determine the domestic, fire protection requirements of this proposed development and establish hydrant requirements and service needs. The applicant will arrange for the removal and disconnection of the existing services and the installation of one new larger service at the applicants cost.
- b) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation system

**3) Sanitary Sewer**

- a) Our records indicate that this property is currently serviced with two 100mm-diameter sanitary sewer service. The applicant's consulting mechanical engineer will determine the requirements of the proposed development and establish the service needs. Only one service will be permitted for this development. If required, the applicant will arrange for the removal and disconnection of the existing service and the installation of one new larger service at the applicants cost.

**4) Road Improvements**

- a) Hunter Rd. has been upgraded to a urban standard and no further works are required.
- b) Hunter Ct. has been upgraded to a urban standard and no further works are required.

**5) Design and Construction**

- a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Works & Utilities Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

**6) Servicing Agreement for Works and Services**

- a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

**7) Charges and Fees**

- a) Fees per the "Development Application Fees Bylaw" include:
  - i) Survey Monument, Replacement Fee: \$1,200.00 (GST exempt) – only if disturbed.
  - ii) Survey Monument Fee: \$50.00 per newly created lot for a total of **\$150.00** (GST exempt)
- b) Engineering and Inspection Fee: 3.5% of construction value (plus GST)

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James Kay P.Eng.  
Development Engineering Manager

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# CITY OF KELOWNA

## BYLAW NO. 11964

### Discharge of Land Use Contract

LUC77-1085 - (P1869)

2280 – 2290 Hunter Road

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WHEREAS a land use (the “Land Use Contract”) is registered at the Kamloops Land Title Office under number P1869 against lands in the City of Kelowna particularly known and described as Parcel A (KD82312) District Lot 125 Osoyoos Division Yale District, Plan 31272 located on Hunter Road;

WHEREAS Section 546 of the *Local Government Act* provides that a land use contract that is registered in a Land Title Office may be discharged in the manner specified in the Land Use Contract, by bylaw following a public hearing on the proposed bylaw;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited for all purposes as “Land Use Contract LUC77-1085 Discharge Bylaw”.
2. The Land Use Contract is hereby cancelled and of no further force and effect and the City of Kelowna is hereby authorized and empowered to apply for the discharge of the Land Use Contract from the Lands.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

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(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11965

### Z19-0111 – 2280-2290 Hunter Road

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A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Parcel A (KD82312) District Lot 125 Osoyoos Division Yale District, Plan 31272 located on Hunter Road, Kelowna, BC from the A1 – Agriculture 1 zone to the C3 – Community Commercial zone;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

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(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# Report to Council



**Date:** December 2, 2019  
**To:** Council  
**From:** City Manager  
**Subject:** Community Energy Retrofit Strategy – Options Analysis  
**Department:** Policy & Planning Department

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## **Recommendation:**

THAT Council receives, for information, the Report from the Community Energy Specialist dated November 15, 2019 with respect to options for a Community Energy Retrofit Strategy;

AND THAT Council directs staff to pursue the recommended approach(es) for the Community Energy Retrofit Strategy outlined in the report.

## **Purpose:**

To inform Council on options for a Community Energy Retrofit Strategy and for Council to direct staff to move forward with or focus on several of the proposed options.

## **Background:**

According to the latest Community Energy and Emissions Inventory (CEEI) data from 2017, buildings account for 40 per cent of Kelowna's community greenhouse gas (GHG) emissions and will be a key part of meeting the City's GHG emissions reduction targets. Council's endorsement of Kelowna's Energy Step Code Implementation Strategy for Part 9 residential buildings has set the course for improving energy efficiency in new residential construction and will help achieve energy and GHG emissions reductions from the building sector. However, it is estimated that by 2040, 70 per cent of residential units will have been built before 2018 (Figure 1; details in Attachment A: Kelowna's Existing Building Stock), suggesting that most of the energy and GHG emissions reductions from the building sector over the next several decades will be generated from retrofits to existing buildings. Additionally, the value of energy retrofits extends beyond GHG emissions reduction. As outlined in Kelowna's *Healthy Housing Strategy*, making homes more energy efficient can reduce household carrying costs through a reduction in average utility bills.<sup>1</sup> Additional benefits are discussed on page 3 of this report.

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<sup>1</sup> City of Kelowna. 2018. Healthy Housing Strategy. Retrieved from:  
[https://www.kelowna.ca/sites/files/1/docs/logos/healthy\\_housing\\_strategy\\_final\\_reduced\\_size.pdf](https://www.kelowna.ca/sites/files/1/docs/logos/healthy_housing_strategy_final_reduced_size.pdf).



Figure 1: Number of residential units in 2040 expected to have been built prior to 2018

To meet the 2023 GHG emissions reduction target, outlined in the *Community Climate Action Plan* (CCAP), one per cent of the existing residential building stock (approximately 539 units) will need be retrofitted annually, achieving a 30 per cent improvement in energy efficiency in each of these units.<sup>2</sup> To meet more ambitious Provincial GHG emissions reduction targets, a recent study by the Pembina Institute suggests three per cent of the existing building stock throughout the province (approximately 47,000 residential units in BC; 1,617 units in Kelowna) will need to be retrofitted annually.<sup>3</sup> From 2014 to 2018, an average of 669 residential renovation permits were issued on an annual basis, representing 1.2 per cent of the existing residential building stock (see Attachment A). Thus, while the CCAP retrofit target may appear to be an easy feat, it would mean that over 80 per cent of permitted residential renovations in Kelowna would need to be targeted toward energy efficiency - a motivation that often ranks near the bottom of motivations for renovating.<sup>4</sup>

From a policy perspective, the challenge for local governments becomes even greater because there is currently no regulatory jurisdiction to mandate or require energy retrofits. While the Province has indicated “new standards for building upgrades will be developed by 2024, guided by the model National Energy Code,”<sup>5</sup> at this point, it is unclear what the provincial policy will look like, and what authority local governments will have. Therefore, in the absence of a clear policy framework in the short-term, there is a need for a concerted campaign and strategy if the City, along with other levels of government and utilities, are to effectively reduce energy and GHG emissions from Kelowna’s existing building stock.

This report defines the concept of an energy retrofit, discusses some of the main barriers and challenges to adopting energy retrofits, and outlines options or approaches the City can pursue that would form part of the Community Energy Retrofit Strategy.

### What is a Retrofit?

A building energy retrofit is an improvement to an existing building’s energy system with the objective of reducing energy usage (e.g., electricity and/or natural gas usage) and/or GHG emissions. They can range from quick modifications like sealing windows to complete replacements of the major systems that heat and cool a building.

When considering retrofits, there are a hierarchy of actions that range in cost, expected impact, disruption to building occupants, and complexity, as illustrated in Figure 2.

<sup>2</sup> Assumes 2 per cent of residences hear about it per year, 10 per cent of those do something (i.e., 0.2 per cent of residences a year), leads to typical energy reductions of 30 per cent.

<sup>3</sup> Frappe-Seneclauze, T.P., Heerema, D., Wu, K.T. 2017. *Deep Emissions Reduction in the Existing Building Stock: key elements of a retrofit strategy for B.C.* Pembina Institute.

<sup>4</sup> CIBC. 2016. CIBC Home Renovation Poll.

<sup>5</sup> BC Government. 2018. cleanBC – our nature. our power. our future. Retrieved from: [https://blog.gov.bc.ca/app/uploads/sites/436/2019/02/CleanBC\\_Full\\_Report\\_Updated\\_Mar2019.pdf](https://blog.gov.bc.ca/app/uploads/sites/436/2019/02/CleanBC_Full_Report_Updated_Mar2019.pdf).

## EXAMPLE RETROFIT TYPES<sup>6</sup>

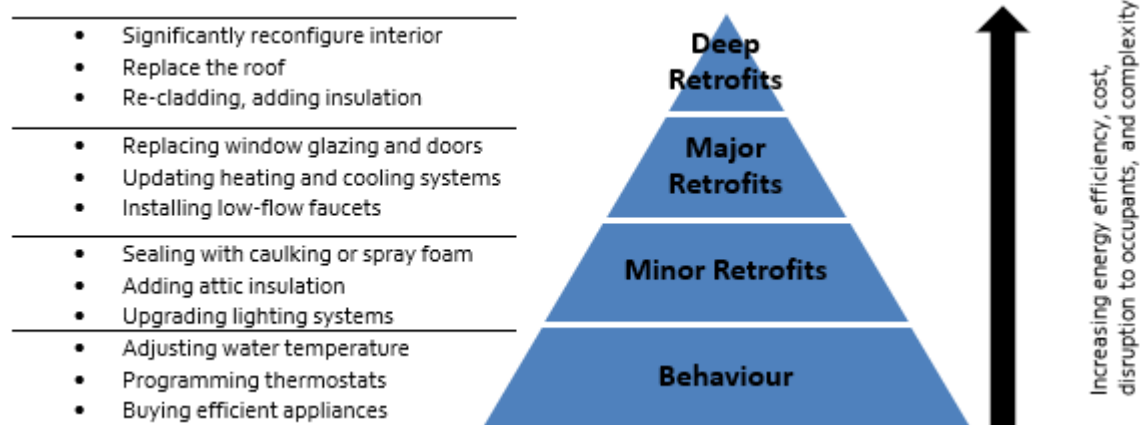


Figure 2: Retrofits types and categories

## Benefits

There are many potential benefits to retrofitting a building. Some of the main benefits include:

- reduce a building's energy costs by up to 60 per cent resulting in lower utility bills
- reduce repairs to building components and therefore lower maintenance costs
- reduce GHG emissions
- improve home comfort (e.g., temperature control system)
- improve occupant health (e.g., less mould with improved vapour barrier).<sup>7</sup>

## Barriers and Challenges

Despite the multitude of benefits for implementing energy retrofits in a building, uptake is low due to a variety of barriers and challenges. Some of the most common barriers include:

- high capital cost of energy-efficient upgrades
- low cost of energy in Kelowna (i.e., with some of the lowest energy costs in Canada and North America,<sup>8</sup> the financial payback of energy retrofits can be long in BC compared to other areas and reduce the incentive to conserve energy.)
- lack of consumer knowledge about the benefits and opportunities
- lack of skilled and knowledgeable contractors to advocate for and complete energy retrofits
- lack of jurisdictional authority for municipalities to require energy retrofits.

## Options:

With significant barriers to large-scale adoption of energy retrofits, evidence to-date suggests the market cannot be solely relied upon to increase energy efficiency in Kelowna's existing building stock. The City, with the help and cooperation of the provincial and federal governments and utility providers

<sup>6</sup> Natural Resources Canada. 2019. Retrofitting. Retrieved from: <https://www.nrcan.gc.ca/retrofitting/20707>.

<sup>7</sup> The Atmospheric Fund. 2019. Energy efficiency 101: Why do an energy retrofit? Retrieved from: <https://taf.ca/energy-efficiency-101-energy-retrofit/>.

<sup>8</sup> Hydro Quebec. 2019. 2019 Comparison of electricity prices in major North American cities. Retrieved from: <http://www.hydroquebec.com/data/documents-donnees/pdf/comparison-electricity-prices.pdf>.

can play a key role. The City needs to recognize its limited authority and determine the degree to which it will contribute resources to promote and/or incentivize energy retrofits while considering the local context. Table 1 summarizes some of the approaches and initiatives that could be considered as part of a Community Energy Retrofit Strategy. More detailed descriptions of the options are provided in Attachment B and Attachment C summarizes some examples of retrofit policies and programs from other communities.

Table 1: Options for Community Energy Retrofit Strategy

Program	Description
<b>Regulation</b>	
Energy Codes	Energy codes are the most prominent method in place to ensure action on GHG emission mitigation in buildings. The development of model codes in Canada, including the National Energy Code for Buildings (NECB), are modified as necessary by provinces to become enforceable building codes <sup>9</sup> The Province indicated in the CleanBC Plan that it intends to implement a retrofit code by 2024. In the absence of this code, the City cannot legally create its own code to require energy efficiency levels or upgrades for existing buildings. A legal opinion obtained by the City of Victoria suggests that BC local governments can require an EnerGuide assessment as a condition of receiving a building permit; however, they (apart from the City of Vancouver) cannot require energy efficiency levels or upgrades.
Energy Benchmarking	Energy benchmarking policies require large building owners or managers to measure and disclose their energy use. These disclosure policies make it possible for potential buyers, renters, and tenants to see which buildings are more energy-efficient, as part of their purchase or leasing decisions, and therefore giving owners additional incentives to invest in energy efficiency. <sup>10</sup> In BC, some local governments have been encouraging the Province to establish building energy benchmarking policy and to clarify the authority for municipalities to develop their own bylaws.
Home Energy Labelling	Several municipalities in the US have adopted policies requiring residential home energy ratings be disclosed at various trigger points (e.g., time of home listing or sale). Home energy ratings are numerical scores based on an assessment of a home's energy efficiency, and let buyers compare the energy efficiency and performance of various homes, much like real-estate walk score ratings. <sup>11</sup> Municipalities cannot require home energy labelling, but provincial governments can and through CleanBC, the Province has indicated its intent to require home energy labelling at the time of sale, although the timelines and program details are unknown at this point.
<b>Incentives</b>	
Rebates	Rebates help overcome the barrier of higher up-front costs of energy-efficient products or services by offering a financial refund to lowers costs. The City can support rebate programs by: (1) leveraging its marketing channels to promote existing rebate programs;

<sup>9</sup> Heerema, D. 2017. Energy Regulations for existing buildings are changing. Are you ready? *Building*, October-November 2017, 23-25.

<sup>10</sup> Meng, T., Hsu, D., and Han, A. 2017. Estimating energy savings from benchmarking policies in New York City. *Energy*, 133, 415-423.

<sup>11</sup> American Council for an Energy-Efficient Economy. 2018. Policy Brief - Home energy efficiency policies: ratings, assessments, labels, and disclosure. Retrieved from: <https://aceee.org/sites/default/files/pdf/topic-home-energy-assessment.pdf>.

Program	Description
	(2) “top-up” existing rebate programs (i.e., add a bonus incentive to an existing rebate); or (3) offer its own unique rebate programs for retrofits not covered by other rebates.
Tax Exemptions	Municipalities can exempt the municipal portion of taxes paid by a property owner (business or residential properties) who meet certain criteria during an investment in the property, <sup>12</sup> provided the requirements in the <i>Community Charter</i> are met. Tax exemptions have not been widely used to incentivize energy retrofits; however, several municipalities in the US have adopted this initiative as part of their retrofit program portfolio (e.g., New York City).
<b>Financing</b>	
Local Improvement Charge (LIC) / Property Assessed Clean Energy (PACE) Financing	LIC Loans (often referred to as PACE) are a financing tool offered by local governments that allow property owners to borrow money to undertake a broad spectrum of energy retrofits to their buildings. The loan is paid back on the owner’s property tax bill, with the energy bill savings created by the improvements, often resulting in net gains for the property owner. Unfortunately, BC has not developed LIC or PACE enabling legislation, therefore municipalities are currently limited in terms of implementing a local program.
<b>Education / Awareness</b>	
Information Distribution	Information distribution assets are characterized by simple, punchy messaging which culminates in a call to action. These assets are meant to generate increased awareness of energy retrofits, and the possible benefits associated with them. Some examples of information distribution channels are mass marketing campaigns, targeted digital campaigns, live media, and events.
Education Assets	<ul style="list-style-type: none"> <li>• <b>Digital Assets:</b> A digital asset is targeted to owners interested in doing retrofits and can be as simple as providing detailed information on incentives (e.g., <a href="http://www.betterhomesBC.ca">www.betterhomesBC.ca</a>) or could be more complex by requiring users to input information to obtain suggestions on how to reduce energy or emissions (e.g., <a href="http://www.gofuelswitch.com">www.gofuelswitch.com</a>).</li> <li>• <b>Physical Assets:</b> Physical assets provide building owners the opportunity to see, touch and use equipment, building materials, and energy saving techniques they might not otherwise be familiar with to increase comfort levels and encourage retrofits (e.g., The Wilden Living Lab is a local example).</li> </ul>
Educational Interventions	Educational interventions are focussed on capacity building for building owners and industry professionals and could include lunch and learns, public access lectures, and tours. Education and training need to be enacted to ensure the success of any retrofit effort.
Targeted Marketing	Because education and awareness will play a big role in retrofit uptake, the more intentional and targeted the messaging is, the more effective it will be. Targeted marketing uses data to identify priority areas for energy retrofits (e.g., building age, demographic data). While the City has some understanding of Kelowna’s building stock (attachment A), it has not mapped energy/GHG emissions from buildings at the neighbourhood or parcel level to develop a targeted campaign.

<sup>12</sup> Tax exemptions for businesses are exempted from section 25(1) of the *Community Charter* by section 226 (14) which grants the authority to provide a tax exemption subject to the conditions described in section 226.

### Recommended Approach:

It is recommended that a Community Energy Retrofit Strategy incorporate the following initiatives:

- **Expand education / awareness initiatives:** Education and awareness are critical first steps in an energy retrofit program to help create a market shift towards retrofits. Although the City is currently helping to promote existing FortisBC and provincial rebate programs, these efforts will need to be supplemented with additional education and awareness initiatives from all subcategories in order to create a stronger consumer knowledge base around the benefits of energy retrofits of existing buildings. Among other things, initiatives should include promotion of available rebate programs, increased digital assets that are locally specific (e.g., a dedicated web resource for local retrofit programs and incentives), industry training events, and targeted marketing to areas that offer the best opportunities to efficiently reduce GHG emissions.

One example of an awareness initiative is the Thermal Imaging Camera program the City recently received FortisBC funding to implement. Through this program, residents will be able to borrow thermal imaging cameras from City Hall and the Okanagan Regional Library to better visualize heat loss in their homes. The motivation for the program is that if occupants can better visualize and understand energy inefficiencies in their home, they will be more inclined to address the inefficiencies through energy retrofits.

- **Continue the development of a prototype “Canadian Energy End Use Map” in partnership with Natural Resources Canada (NRCan):** The City is currently in the early stages of partnering with CanmetENERGY-Ottawa, a division of NRCan, to develop an online map-based decision tool for building stock energy efficiency. The aim of the project is to make residential energy end-use and efficiency opportunities visible on a map, using available federal, municipal, and open data, and leveraging Kelowna’s existing Model City. Available data can be used to correlate specific household attributes with each other to develop targeted marketing campaigns and identify priority geographic areas for the Community Energy Retrofit Strategy.
- **Expand Kelowna’s rebate top-ups:** The City has currently dedicated up to \$20,000 from Development Services Permit Averaging Reserve Account to participate in a Municipal Top-Up to EnerGuide home evaluations through BetterhomesBC between October 2019 and September 2020. Through this program participants in Kelowna get a \$300 rebate from the Province and a municipal top-up rebate of \$150 (for a total incentive of \$450), covering 50 to 75 per cent of the cost to conduct a pre and post-retrofit energy assessment of their home. The City could expand the funding for BetterhomesBC municipal top-up opportunities to include electric service upgrades and switching from a fossil fuel water and/or space heating system to an electric heat pump water and/or space heating system, effective mechanisms to significantly reduce GHG emissions from existing buildings. One key benefit of this program structure is that the Province handles all administrative components (e.g., distribution of rebates, website) and provides quarterly reports summarizing program participation. Thus, the only requirement for the City is to commit a maximum budget that would be allocated to the top-up.
- **Conduct a legal assessment to determine if the City can require an EnerGuide Assessment at time of renovation permit:** Regulation is more effective than voluntary approaches when it comes to shifting the energy retrofit market. A recent legal opinion by the City of Victoria suggests local governments have the authority to require an EnerGuide assessment as a condition of receiving a building permit. EnerGuide assessments can be valuable educational tools that create awareness of a home’s baseline energy performance and priority areas for

energy efficiency improvements. To confirm that this policy tool is available, the City should obtain a separate legal opinion that is specific to Kelowna's context. If permitted, a policy to require an EnerGuide assessment as a condition of receiving a building permit over a specific cost threshold could be explored.

- **Seek clarity from the Province on the direction regarding local government jurisdiction for benchmarking and home energy labelling:** In the US, home energy labelling and benchmarking requirements have been effective at creating awareness of energy consumption and catalyzing increased energy retrofits. The City could join other BC local governments and the Union of BC Municipalities in encouraging the Provincial government to establish a building energy benchmarking policy and to clarify the authority for municipalities to develop their own bylaws. For home-energy labelling, the Province has indicated (through CleanBC) its intent to explore energy rating requirements for homes and buildings at point of sale or lease. The City will stay connected with the Province on this development and ensure that the rollout of the provincial policy is supported locally.
- **Investigate financing models and other funding sources that would support city-wide deep energy retrofits:** The high upfront cost of energy retrofits is one of the biggest barriers preventing wider retrofit adoption. As such, financial models that can minimize upfront costs (e.g., loans, grants) could help address this barrier and make retrofits more feasible for many building owners. Currently there is no LIC or PACE enabling legislation in BC, so municipalities cannot adopt a program. However, the City will continue to explore grant opportunities for specific programs (e.g., through Federation of Canadian Municipalities) and other financial tools that can support retrofits.
- **Explore options to link energy retrofits with upgrades of buildings on Kelowna's Heritage Register:** Heritage and character homes built before 1940 typically have the greatest potential to improve energy efficiency and reduce GHG emissions. One way to target these buildings is through the City's Heritage Grants Program. The City could increase the budget for the Heritage Grants Program, with the increase being apportioned to incentivizing energy evaluations for heritage buildings and/or upgrades that are proven to reduce energy and GHG emissions. The City should also explore other ways to link energy efficiency to heritage buildings.

### **Conclusion and Next Steps:**

While existing buildings present a greater challenge to incorporate energy efficiency than new construction, they also present a significant opportunity because of higher energy and GHG emissions reduction potential of retrofitting older buildings. Retrofitting buildings to reduce energy and GHG emissions is critical to help Kelowna achieve its GHG emissions reduction targets. To achieve this, deep retrofits of the existing building stock is required, which will require an assortment of actions and policies as well as staff resources. Further, these retrofits will also help reduce household carrying costs through a reduction in average utility bills, a priority area outlined in the Healthy Housing Strategy.

Once priority areas are identified and agreed upon, a Community Energy Retrofit Strategy will be developed which will help catalyze increased energy retrofits in Kelowna and ensure community goals are achieved. The strategy is expected to be completed in 2020.

## Internal Circulation:

Development Planning  
Development Services  
Policy & Planning  
Building Services

## Existing Policy:

- *OCP 2030*
  - OCP Objective 6.2. - "Improve energy efficiency and reduce community greenhouse gas emissions" (and supporting policies).<sup>13</sup>
- *Our Kelowna as We Take Action: Kelowna's Community Climate Action Plan (2018-2023):*
  - Action #B1 – "Partner with FortisBC on delivery and promotion of conservation and energy management programs, including New Home, Energy Conservation Assistance Program, Rental Apartment Efficiency Program, Commercial Custom Design Program and other residential and commercial rebates and offers."
  - Action # B4 – "Develop a community energy retrofit strategy including regulation and incentives to encourage existing building stock to become more energy efficient."
  - Action # B11 – "Investigate financing models and other funding sources that would support city-wide deep energy retrofits."<sup>14</sup>
- *Healthy Housing Strategy*
  - Recommended action: "In partnership with FortisBC, develop a Community Energy Retrofit Strategy to encourage and incentivize existing buildings to become more energy efficient. This will reduce household carrying costs through a reduction in average utility bills."<sup>15</sup>
- *Imagine Kelowna*
  - Take action in the face of climate change<sup>16</sup>
- *Council priorities*
  - Greenhouse gas emissions are decreasing
  - Resiliency and adaptability to climate change<sup>17</sup>

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<sup>13</sup> City of Kelowna. 2011. Kelowna 2030 – Official Community Plan: Chapter 6 – Environment. Retrieved from: <https://apps.kelowna.ca/CityPage/Docs/PDFs/Bylaws/Official%20Community%20Plan%202030%20Bylaw%20No.%2010500/Chapter%2006%20-%20Environment.pdf>.

<sup>14</sup> City of Kelowna. 2018. Our Kelowna as we take action: Kelowna's Community Climate Action Plan. Retrieved from: [https://www.kelowna.ca/sites/files/1/docs/community/community\\_climate\\_action\\_plan\\_june\\_2018\\_final.pdf](https://www.kelowna.ca/sites/files/1/docs/community/community_climate_action_plan_june_2018_final.pdf).

<sup>15</sup> City of Kelowna. 2018. Healthy Housing Strategy. Retrieved from: [https://www.kelowna.ca/sites/files/1/docs/logos/healthy\\_housing\\_strategy\\_final\\_reduced\\_size.pdf](https://www.kelowna.ca/sites/files/1/docs/logos/healthy_housing_strategy_final_reduced_size.pdf).

<sup>16</sup> City of Kelowna. 2018. Imagine Kelowna: the Visions to 2040. Retrieved from: [https://www.kelowna.ca/sites/files/1/docs/related/imagine\\_kelowna\\_short\\_report\\_digital.pdf](https://www.kelowna.ca/sites/files/1/docs/related/imagine_kelowna_short_report_digital.pdf).

<sup>17</sup> City of Kelowna. 2019. Council Priorities 2019-2022. Retrieved from: [https://www.kelowna.ca/sites/files/1/docs/council\\_priorities\\_2019-2022\\_summary.pdf](https://www.kelowna.ca/sites/files/1/docs/council_priorities_2019-2022_summary.pdf).

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cc:

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Development Services Director  
Sustainability Coordinators  
Energy Program Manager

Attachments:

- Attachment A: Summary of Kelowna's existing building stock
- Attachment B: Options for retrofits
- Attachment C: Examples of retrofit policy from other BC communities

## Attachment A: Kelowna's Existing Building Stock

Understanding the challenges and opportunities of retrofitting Kelowna's existing buildings first requires an understanding of the current building stock. The following section summarizes greenhouse gas (GHG) emissions sources from the buildings sector, the age of existing buildings, and the number of renovation permits issued on an annual basis between 2014 and 2019.

### GHG Emissions Sources from the Building Sector

Within the building sector, natural gas consumption accounts for 92 per cent of GHG emissions in Kelowna. Residential natural gas use contributes 52 per cent of this total, while natural gas consumed by industrial, commercial and institutional buildings (ICI) account for the remaining 40 per cent.

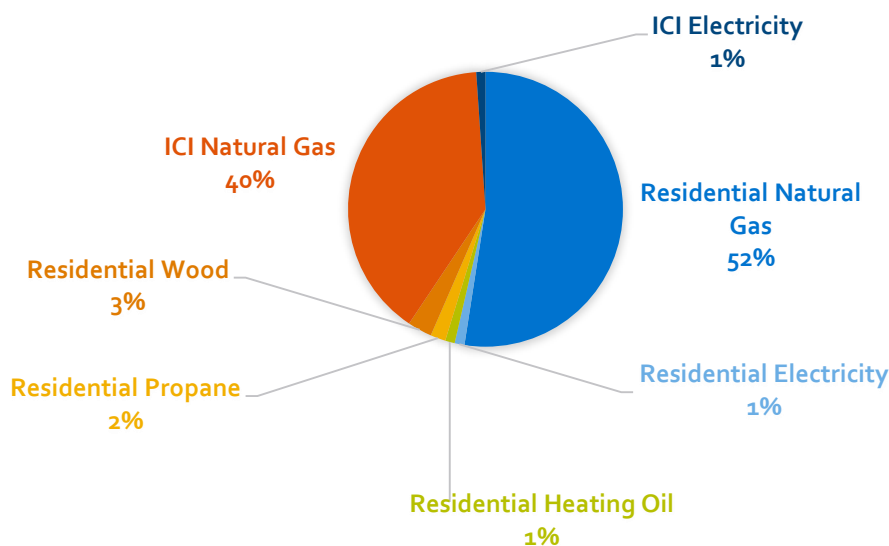


Figure 1: Kelowna's Sector Building Emissions (tCO<sub>2</sub>e) - 2012<sup>1</sup>

### Residential

#### *Building Makeup*

Approximately 27 per cent of the current housing stock in Kelowna was built prior to 1980, and 52 per cent was built prior to 2000. Many houses are therefore reaching the age where major structural components will need to be replaced. This offers an excellent opportunity to not only bring these dwellings up to current codes but to dramatically increase efficiency through envelope and mechanical system upgrades.

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<sup>1</sup> BC Government. Community Energy and Emissions Inventory (CEEI). Retrieved from: <https://www2.gov.bc.ca/gov/content/environment/climate-change/data/ceei>.

## Attachment A: Kelowna's Existing Building Stock

Table 1: Vintage of Existing and Projected Residential Housing Units

Build Date Range <sup>2</sup>	# of Units	Proportion of Total
Pre-1960	3,950	5.3%
1961-1980	16,155	21.8%
1981-1990	8,160	11.0%
1991-2000	10,500	14.2%
2001-2010	11,645	15.7%
2011-2016	3,500	4.7%
2017-2040	20,130	27.2%
Total	74,040	100.0%

### Renovation Permits Issued Annually

From 2014 to 2018, an average of 669 residential renovation permits were issued on an annual basis (Table 2). This represents 1.2 per cent of the existing residential building stock. To reach the goals of Community Energy Retrofit Strategy outlined in the *Community Climate Action Plan* (CCAP) (i.e., one per cent of the existing residential building stock will need be retrofitted annually, achieving a 30 per cent improvement in energy efficiency in each of these units), every one of the residential renovations would need to be targeted toward energy efficiency – a motivation that often ranks near the bottom of motivations for renovating.<sup>3</sup> Additionally, it is widely assumed that a large portion of the renovation market is “underground,” meaning that a large majority of renovations would not be permitted with the City (and therefore not captured in the development statistics in Tables 2 and 3).<sup>4</sup> On one hand this is positive because it assumes there are more renovations occurring, and therefore more opportunities to encourage energy retrofits. Conversely, unpermitted renovations mean there is no “trigger” to engage with homeowners at the time of permit (could engage with them through promotion, etc.).

<sup>2</sup> Data to 2016 was retrieved from <http://www12.statcan.gc.ca/census-recensement/2016/dp-prof/prof/details/page.cfm?Lang=E&Geo1=CSD&Code1=5935010&Geo2=PR&Code2=01&Data=Count&SearchText=kelowna&SearchType=Begin&SearchPR=01&B1=Housing&TABID=1>; 2017-2031 data was retrieved from the *City of Kelowna Housing Demand Forecast: Looking to 2040* (June, 2018).

<sup>3</sup> CIBC. 2016. CIBC Home Renovation Poll.

<sup>4</sup> BC Housing. 2017. Encouraging Green Renovations: Research Overview – Presentation to Community Energy Managers. Presentation on September 28, 2017.

## Attachment A: Kelowna's Existing Building Stock

Table 2: Renovation Permits and Value Across Residential Renovation Types (2014-2019)

Year		Residential Renovation Type									Res Totals
		Apartment	SFD - Reno	SFD - Addition	SFD - Addition Suite	SFD - Suite	2 Family - Reno	2 Family Addition	3 Family - Reno	Townhouse - Reno	
2014	Permits	26	335	85	7	117	18	4	0	21	613
	Value (\$)	4,228,000	9,615,219	9,463,435	1,478,000	2,421,510	399,000	90,000	0	666,000	28,361,164
Average Renovation Value											\$46,266
2015	Permits	27	294	96	13	135	8	2	0	23	598
	Value (\$)	1,514,000	9,235,697	5,661,200	1,197,500	2,404,820	311,087	20,000	0	407,500	20,751,804
Average Renovation Value											\$34,702
2016	Permits	36	380	97	11	166	15	1	0	27	733
	Value (\$)	1,432,000	10,154,711	6,491,100	790,940	4,481,500	282,381	180,000	0	496,955	24,309,587
Average Renovation Value											\$33,164
2017	Permits	48	299	104	21	189	18	4	1	25	709
	Value (\$)	2,621,093	10,863,378	7,686,410	2,591,550	5,782,175	582,180	48,000	10,000	1,093,000	31,277,786
Average Renovation Value											\$44,115
2018	Permits	57	309	121	20	166	15	2	1	1	692
	Value (\$)	17,984,968	9,453,791	9,899,600	2,798,000	5,107,367	741,923	80,000	10,000	10,000	47,097,080
Average Renovation Value											\$68,059
2019 (YTD)*	Permits	63	234	100	13	113	8	3	2	0	536
	Value (\$)	6,773,551	8,964,163	8,506,920	3,392,628	4,337,499	189,530	30,000	58,000	0	32,727,926
Average Renovation Value											\$61,059

\*YTD: year-to-date (permits issued between January and the end of September in 2019)

## Attachment A: Kelowna's Existing Building Stock

### Industrial, Commercial, and Institutional Buildings

#### Building Makeup

The industrial, commercial, and institutional buildings (ICI) built environment is not as well understood as low density residential (the best we can do is use proxy measures to gather information about the number of buildings, age, and use). There is a great need to better understand the makeup and energy consumption patterns of non-residential buildings to enable informed decision making regarding how or if to target ICI structures with a retrofit program.

#### Renovation Permits Issued Annually

From 2014 to 2018 an average of 343 ICI renovation permits were issued on an annual basis (Table 3).

Table 3: Renovation Permits and Value Across ICI Renovation Types (2014-2019)

Year		Industrial, Commercial & Institutional Renovation Type			
		Industrial - Reno	Commercial - Reno	Institutional - Reno	Total
2014	Permits	35	283	21	339
	Value (\$)	2,264,000	30,007,872	5,872,317	38,144,189
Average Renovation Value (\$)		64,685	106,034	279,634	112,519
2015	Permits	34	284	29	347
	Value (\$)	1,857,836	26,658,075	24,844,600	53,360,511
Average Renovation Value (\$)		54,642	93,866	856,710	153,776
2016	Permits	50	243	23	316
	Value (\$)	3,825,930	40,283,605	29,056,810	73,166,345
Average Renovation Value (\$)		76,518	165,776	1,263,339	231,539
2017	Permits	41	292	18	351
	Value (\$)	3,817,800	41,527,623	2,591,775	47,937,198
Average Renovation Value (\$)		93,117	142,217	143,987	136,573
2018	Permits	63	283	16	362
	Value (\$)	19,879,092	39,837,250	2,307,730	62,024,072
Average Renovation Value (\$)		315,541	140,767	144,233	171,337
2019 (YTD)*	Permits	49	275	16	340
	Value (\$)	6,808,766	35,814,744	2,208,915	44,832,425
Average Renovation Value (\$)		138,954	130,235	138,057	131,860

\*YTD: year-to-date (permits issued between January and the end of September in 2019)

## Attachment B: Summary of Retrofit Options

Name: Energy Benchmarking	Type: Regulation or Voluntary
<b>Sector:</b> ICI and High-Density Residential (i.e., large buildings)	
<b>Description:</b> Energy benchmarking policies require owners to measure and disclose their energy use, which makes energy efficiency investments more visible and therefore valuable.	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• Make it possible for potential buyers, renters, and tenants to see which buildings are more energy-efficient, therefore valuing this in their purchase or leasing decisions, and therefore giving owners additional incentives to invest in energy efficiency.</li> <li>• Having visibility into a building's energy consumption relative to similar buildings and to a buildings previous energy performance provides an incentive to ensure the building is not a low performer.</li> </ul>	
<b>Challenges:</b> While several municipalities in the US have enacted laws to require benchmarking, to this point in BC only voluntary policies have been used. Therefore, the Province would first have to establish building energy benchmarking policy and to clarify the authority for municipalities to develop their own bylaws. If a voluntary approach was endorsed, it would be difficult to convince building owners and managers that measuring and disclosing energy consumption has benefits, especially if other similar buildings are not required to measure and report; thus, uptake may be low.	
<b>How it Could be Implemented in Kelowna:</b> Educating building managers on the benefits of benchmarking and providing coaching or streamlined access to benchmarking tools (e.g., ENERGY STAR Portfolio Manager®).	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>City of Vancouver</b> – mandatory benchmarking for City-owned buildings, and voluntary benchmarking for large public sector/institutional, commercial, and high-density residential buildings.<sup>1</sup></li> <li>• <b>New York City</b> - requires commercial and multifamily buildings above 50,000 square feet to disclose their energy use data.<sup>2</sup></li> </ul>	

<sup>1</sup> <https://vancouver.ca/green-vancouver/energy-benchmarking-for-large-buildings.aspx>

<sup>2</sup> <https://www1.nyc.gov/html/gbee/html/plan/1184.shtml>

## Attachment B: Summary of Retrofit Options

Name: Home Energy Labelling	Type: Regulation or Voluntary
<b>Sector:</b> Residential	
<b>Description:</b> Home energy labelling policies require residential energy ratings, reports, or end-use disclosure following a home energy assessment. Home energy ratings are numerical scores based on an assessment of a home's energy efficiency. Home energy ratings let buyers compare the energy efficiency and performance of various homes, much like vehicle fuel-economy ratings or real-estate walk score ratings. Some home energy assessments provide more detailed home energy reports and highlighted recommended energy efficiency improvements. Energy-use disclosure makes utility data on home energy consumption publicly available, typically as part of the real estate sales process. <sup>3</sup> Once a rating, report, or energy consumption history has been established, local or provincial governments can then require that this information be disclosed at various trigger points (e.g., time of home listing, sale, occupancy, rent, renovation).	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• Providing better information about a building's energy efficiency will catalyze owners and occupants to make decisions that reduce energy consumption.</li> <li>• Energy costs can be more easily factored into purchasing or renting decisions, and over time the demand for energy efficient homes and buildings will increase.<sup>4</sup></li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Local governments cannot require home energy labelling at the time of sale, but the Provincial government can (uncertainty of Provincial program).</li> <li>• The need to establish a consistent labelling program (e.g., EnerGuide) to ensure comparability.</li> <li>• Would need to get the real estate industry on-board if labelling is to be linked to time of sale or time of listing.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• Adoption and support of Provincial home energy rating policy once enacted.</li> <li>• Encouraged on a voluntary basis following EnerGuide assessments.</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>City of Portland</b> - Implemented the Home Energy Score ordinance requiring sellers of single-family homes to disclose a Home Energy Report and Score at the time of listing.<sup>5</sup></li> <li>• <b>City of Berkeley and City of Austin</b> - Adopted mandatory home energy audits and ratings for single-family residential buildings at time of sale. Austin's ordinance only requires the seller to disclose the energy rating and report to prospective buyers, while Berkeley's ordinance requires homeowners to publicly report the energy rating and report.<sup>6</sup></li> </ul>	

<sup>3</sup> American Council for an Energy-Efficient Economy. 2018. Policy Brief - Home energy efficiency policies: ratings, assessments, labels, and disclosure. Retrieved from: <https://aceee.org/sites/default/files/pdf/topic-home-energy-assessment.pdf>.

<sup>4</sup> Zirnelt, H, and Horne, M. 2010. Energy labelling and efficiency requirements for existing buildings. *Pembina Institute*. Retrieved from: <https://www.pembina.org/reports/labellingee-existingbuildings.pdf>.

<sup>5</sup> <https://www.portlandoregon.gov/bps/71421>

<sup>6</sup> Consumers Council of Canada. 2018. Mandatory home energy rating and disclosure for existing houses: opportunities and risks for consumers. Retrieved from: [https://www.consumerscouncil.com/site/consumers\\_council\\_of\\_canada/assets/pdf/810796\\_ccc\\_energy\\_rating\\_report\\_english\\_web.pdf](https://www.consumerscouncil.com/site/consumers_council_of_canada/assets/pdf/810796_ccc_energy_rating_report_english_web.pdf).

## Attachment B: Summary of Retrofit Options

Name: Rebates	Type: Incentives
<b>Sector:</b> Residential or ICI	
<b>Description:</b> Financial incentives that help overcome the barrier of higher up-front costs of energy-efficient products or services by offering a refund that ultimately lowers costs. Some of these programs have distinct target markets (e.g., Rental Apartment Efficiency Program, Energy Conservation Assistance Program for low-income households), while others are more generic.	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• Makes energy-efficiency upgrades more affordable, ultimately addressing one of the biggest barriers to energy retrofits (i.e., high capital cost).</li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Typically, rebates are offered after the upgrade has already been completed, so the purchaser would still have to take on the full cost of the upgrade before being reimbursed.</li> <li>• Because the rebates are not returned to the issuer, the City is limited in what it could offer on its own.</li> <li>• Lack of awareness of the rebates can minimize program uptake.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• The City can leverage its marketing channels to help promote and increase participation in existing Provincial and FortisBC rebate program.</li> <li>• The City can “top-up” existing rebate programs.</li> <li>• The City can offer its own unique rebate programs</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>Regional District of Central Kootenay</b> - A simplified process has been designed to help residents reduce energy costs. Residents can access an energy evaluation to determine what energy efficient upgrades (retrofits) can be done to reduce energy consumption and lower greenhouse gas emissions. Applicants can access current rebate offers, financing options, a local contractor guide and energy coaching.<sup>7</sup></li> <li>• <b>Township of Langley</b> - If homeowners complete home improvements that reduce annual energy consumption by at least 10 GJ, they can access rebates from the Township. Residents can access \$15 x every 1 GJ/year reduction (example: \$15 x 25 GJ/Year = \$375 rebate + Subsidized EnerGuide pre-retrofit home evaluations).<sup>8</sup></li> <li>• <b>LiveSmart BC's Efficiency Incentive Program (2008)</b>: the Provincial home retrofit and energy efficiency rebate and incentives program reached its three-year target (40,000 homes) and budget (\$62M) in just 15 months of implementation.</li> </ul>	

<sup>7</sup> <https://rdck.ca/EN/main/services/sustainability-environmental-initiatives/energy/regional-energy-efficiency-program.html>

<sup>8</sup> <https://betterhomesbc.ca/rebates/goo-township-langley-green-building-rebate-program/>

## Attachment B: Summary of Retrofit Options

Name: Tax Exemptions	Type: Incentives
<b>Sector:</b> Residential or ICI	
<b>Description:</b> Municipalities can exempt the municipal portion of taxes paid by a property owner (business or residential properties) who meets certain criteria during an investment in the property. <sup>9</sup> A bylaw must be written which satisfies all the requirements as laid out in the <i>Community Charter</i> .	
<b>Benefits:</b> <ul style="list-style-type: none"><li>• Provides a direct link between City processes (i.e., municipal property taxes) and improvements to community buildings.</li><li>• Similar to a rebate in that it can make energy-efficiency upgrades more affordable, ultimately addressing one of the biggest barriers to energy retrofits (i.e., high capital cost).</li></ul>	
<b>Challenges:</b> <ul style="list-style-type: none"><li>• Not commonly used for energy retrofits, so there are not many successful examples to draw from (no examples in Canada).</li><li>• Uncertainty on how to link the value of the retrofit to the value of the tax exemption.</li><li>• Could be a difficult concept for the average resident to grasp, thus participation could be low.</li></ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"><li>• See New York City's example below.</li></ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"><li>• <b>New York City</b> - qualifying energy-conservation improvements to homes are exempt from real property taxation to the extent that the retrofit would increase the value of the home. Eligible properties include single-family to four-family dwellings, and the exemption applies directly to a variety of equipment and measures (including solar and wind energy systems).<sup>10</sup></li></ul>	

<sup>9</sup> Tax exemptions for businesses are exempted from section 25(1) of the *Community Charter* by section 226 (14) which grants the authority to provide a tax exemption subject to the conditions described in section 226.

<sup>10</sup> <https://programs.dsireusa.org/system/program/detail/1596>

## Attachment B: Summary of Retrofit Options

<b>Name:</b> Local Improvement Charge / Property Assessed Clean Energy (PACE) Financing	<b>Type:</b> Financing
<b>Sector:</b> Residential or ICI	
<b>Description:</b> Local Improvement Charge (LIC) Loans (often referred to as Property Assessed Clean Energy Financing) are an innovative financing tool that allows property owners to borrow money to undertake a broad spectrum of energy retrofits to their buildings. The loan is paid back on the owner's property tax bill, with the energy bill savings created by the improvements, often resulting in net gains for the property owner. The value of the loan is attached to the property itself, not to the owner so when the property is sold, the remaining loan stays with the property, along with the energy efficiency upgrades and the savings associated with them. Local governments voluntarily opt into a LIC or PACE program; their role is to issue tax liens that provides security to the lender and collect payments from the owner via an assessment on the property tax bill and remit them to the administrator.	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• Links the financing to the building rather than the person, so financing can be transferred with ownership changes.</li> <li>• Typically low interest rates with costs spread over the life of the retrofit (up to 30 years), and not linked to credit scores.</li> <li>• Does not require the City to provide funds (i.e., it is not an incentive or subsidy). The City would only need to administer the loan program.</li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Currently no LIC or PACE enabling legislation in BC, so municipalities cannot adopt a program.</li> <li>• Administration of the program could require extensive effort and resources.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• Unable to implement unless the Province passed LIC or PACE enabling legislation.</li> <li>• The municipality of Port Moody has passed a council resolution and provided a letter of support for the Province to conduct a study of PACE best practices. In Kelowna, the City could to take a similar approach if a LIC or PACE or Loan program is desirable.</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>Municipality of the District of Lunenburg, NS</b> - Partnered with Clean Foundation and the Province of Nova Scotia to provide PACE financing. The financing allows homeowners to install clean energy upgrades such as insulation, energy efficient windows and doors, as well as high efficiency heat pumps and solar panels as part of the program. A Home Energy Assessment determines what upgrades a home is eligible for. A low lending rate (4%) for the upgrades is provided and borrowers can spread installment payments over a period of 10 years, repayable through charges attached to their property. Should the home sell, the remaining payments become the obligation of the new home owner. Lump sum payments can be made at any time without penalty.<sup>11</sup></li> </ul>	

<sup>11</sup> <https://www.modl.ca/i-want-to/apply-for/pace-program>

## Attachment B: Summary of Retrofit Options

Name: Information Distribution	Type: Education and Awareness
<b>Sector:</b> Residential or ICI	
<b>Description:</b> Information distribution assets are characterized by simple, punchy messaging which culminates in a call to action. These assets are meant to generate increased awareness of energy retrofits, and the possible benefits associated with them. The call to action is meant to encourage building owners who are starting to become interested in the idea of energy retrofits to engage with other, more complex program assets described as educational assets. Some examples of information distribution channels are: <ul style="list-style-type: none"> <li>• Mass marketing campaigns (all mediums, untargeted) <ul style="list-style-type: none"> <li>○ On-bill (City and FortisBC)</li> <li>○ Conventional Marketing (social, print, TV, radio)</li> </ul> </li> <li>• Targeted digital campaigns</li> <li>• Targeted direct mail campaigns</li> <li>• Contractor distribution</li> <li>• Live media (TV, radio)</li> <li>• Events <ul style="list-style-type: none"> <li>○ Green Living Expo (home shows etc.)</li> <li>○ Block Party's.</li> </ul> </li> </ul>	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• Generally easy to implement.</li> <li>• Cost can be scaled to level of effort.</li> <li>• Can be used to support any other initiative.</li> <li>• Method of delivery can match target market (e.g., mailouts for seniors; social media for younger generation and seniors).</li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Does not directly result in uptake of energy retrofits (i.e., the actual turnover rate can be low); thus, difficult to track success.</li> <li>• Will generally require the City to offer financial support.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• To support FortisBC and Provincial retrofit initiatives, and any initiatives supported by the City (e.g., Municipal Top-Up and See the Heat Thermal Imaging Camera Program).</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>City of Kamloops:</b> Block party funding is available to any Kamloops resident who wants to organize a block party. The funding is applied for through the City's Neighbourhood Matching Fund program with a focus on energy efficiency. Successful applicants will receive up to \$1,750 to cover the cost of food, music, and entertainment. FortisBC and the City fund these block parties to help neighbourhood associations and community members to build community by bringing people together, and to help customers save energy and energy-related costs.<sup>12</sup></li> </ul>	

<sup>12</sup> <https://www.kamloops.ca/our-community/news-events/news-releases/city-kamloops-and-fortisbc-block-party-funding>

## Attachment B: Summary of Retrofit Options

Name: Educational Assets	Type: Education and Awareness
<b>Sector:</b> Residential or ICI	
<b>Description:</b> These are pieces of property (both physical and information) that can increase education and awareness of retrofit initiatives. The level of complexity of these educational assets can vary widely, and can come in two forms: <ul style="list-style-type: none"> <li>• <b>Digital Asset</b> – a digital asset could be as simple as <a href="http://www.betterhomesBC.ca">www.betterhomesBC.ca</a> which provides detailed information on incentives, or could be as complex as <a href="http://www.gofuelswitch.com">www.gofuelswitch.com</a> which after providing information on dozens of variables clients receive detailed suggestions for how to reduce their GHG emissions. Both examples are information heavy, require inputs from the user and are designed with building owners who are already interested in doing some energy efficiency upgrades. Users are willing to spend some time working on it. These are tools that are meant to be used in the retrofit planning process and could promote the value of professions such as Energy Advisors, and CleanBC Program Registered Contractors.</li> <li>• <b>Physical Asset</b> – an example of a physical education asset is a demonstration site that provides building owners the opportunity to see, touch and use equipment, building materials, and energy saving techniques they might not otherwise be familiar with.</li> </ul>	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• The ability to actually see relatively unfamiliar things up close helps to increase comfort levels and could make building owners more likely to retrofit their building.</li> <li>• Can be used to support any other initiative.</li> <li>• May be an effective method to educate industry stakeholders (e.g., trades), who may be skeptical on how to approach energy retrofits and their benefits.</li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Can be costly to develop and maintain, and would reach a much smaller, more engaged audience.</li> <li>• Does not directly result in uptake of energy retrofits (i.e., the actual turnover rate can be low); thus, difficult to track success.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• To support FortisBC and Provincial retrofit initiatives, and any initiatives supported by the City.</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>Wilden Living Lab (Kelowna)</b> - featured two different homes built in 2017 that had different energy efficiency characteristics. One featured standard technologies according to the current Building Code. The other exceeded code requirements using the latest technologies to enhance energy efficiency. Currently, both homes are being monitored and compared for energy consumption and cost efficiency by a research team at UBC Okanagan's School of Engineering.<sup>13</sup></li> </ul>	

<sup>13</sup> <https://wildenlivinglab.com/>

## Attachment B: Summary of Retrofit Options

Name: Educational Interventions	Type: Education and Awareness
<b>Sector:</b> Residential or ICI	
<b>Description:</b> <p>Educational interventions are focussed on capacity building for building owners and industry professionals. Education for building owners in this context could be provided through lunch and learns, public access lectures, and tours.</p> <p>Education and training for industry is one of the most important elements that will need to be enacted to ensure the success of any retrofit effort. Working with trades especially HVAC, insulation, and general contractors to ensure that they are aware of the program offerings, are up to date on what technologies are available and the benefits of those technologies and are able to effectively discuss energy retrofits especially once an energy audit has been conducted are all crucial.</p>	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• May be an effective method to educate industry stakeholders (e.g., trades), who may be skeptical on how to approach energy retrofits and their benefits.</li> <li>• The City has several facilities that could facilitate lunch and learns and public access lectures, which could make these options more cost effective.</li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Attracting interest from trades can be a challenge as most of them do not require any specific professional development and they are typically very busy.</li> <li>• Does not directly result in uptake of energy retrofits (i.e., the actual turnover rate can be low); thus, difficult to track success.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• Organize, host, and facilitate lunch and learn's and public access lectures on topics relevant to energy retrofits.</li> <li>• Partner with an architect/developer/builder/building owner to offer tours of homes that have undergone successful deep energy retrofits.</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>Green Energy Doors Open 2017: Net-zero Energy Retrofit Tour (Toronto):</b> a retrofit of an existing home in Toronto to be net-zero served as a case study and demonstration that it is possible to conduct deep energy retrofits. Tours of the home were offered to the public.<sup>14</sup></li> </ul>	

<sup>14</sup> <https://www.coolearth.ca/2017/09/05/green-energy-doors-open-2017-net-zero-energy-retrofit-tour/>

## Attachment B: Summary of Retrofit Options

Name: Targeted Marketing	Type: Education and Awareness
<b>Sector:</b> Residential or ICI	
<b>Description:</b> <p>As with any community initiative, an obvious starting point is to segment the market to understand priorities and opportunities, and to have some sort of baseline data to understand the current state. Although some of this work has been done to understand the energy efficiency market from the building sector (e.g., demographic data, uptake of energy efficiency incentives from utilities), most municipalities do not have a thorough understanding of their building stock and have not mapped energy/GHG emissions from buildings at the neighbourhood or parcel level. As such, most energy/GHG emissions reduction strategies for the building sector are advised by higher level data (e.g., Community Energy and Emissions Inventory data from the Province of BC) that provides little insight or spatial visibility into how energy is currently being used how it may be used in the future under different scenarios. Because education and awareness will play a big role in retrofit uptake, the more intentional and targeted the messaging is, the more effective it will be. Highly targeted marketing can be achieved by using all the data sources that are available to the City to identify priority areas for energy retrofits (e.g., building age, demographic data) and by having a better understanding of the existing building stock. This is a crucial first step before spending time and resources on marketing efforts.</p>	
<b>Benefits:</b> <ul style="list-style-type: none"> <li>• Allows retrofit education and awareness initiatives to be more impactful and backed by data analysis to understand the local market.</li> <li>• Allows for more efficient use of resources.</li> </ul>	
<b>Challenges:</b> <ul style="list-style-type: none"> <li>• Data analysis can be time consuming.</li> <li>• Limitations on what data is available and privacy issues around data access (e.g., energy use at the parcel level from FortisBC).</li> <li>• Does not directly result in uptake of energy retrofits (i.e., the actual turnover rate can be low); thus, difficult to track success.</li> </ul>	
<b>How it Could be Implemented in Kelowna:</b> <ul style="list-style-type: none"> <li>• The City is currently in the early stages of partnering with CanmetENERGY-Ottawa, a division of Natural Resources Canada (NRCan), to develop an online map-based decision tool for building stock energy efficiency. The aim of the project is to make residential energy end-use and efficiency opportunities visible on a map, using available federal, municipal, and open data. Available data can be used to correlate specific household attributes with each other to develop targeted mailing lists, or phone call campaigns for a specific segment of the households or businesses.</li> </ul>	
<b>Successful Examples:</b> <ul style="list-style-type: none"> <li>• <b>City of Berkeley:</b> City Building Energy Saver (CityBES) is a web-based data and computing platform, focusing on energy modeling and analysis of a city's building stock to support district or city-scale efficiency programs. CityBES employs EnergyPlus to simulate building energy use and savings from energy efficient retrofits.<sup>15</sup></li> </ul>	

<sup>15</sup> <https://citybes.lbl.gov/>

**Attachment C: Example Retrofit Policy and Programs from other BC Municipalities**

Municipality	Program Name	Sector	Category	Description
City of Kamloops	<a href="#">See the Heat (Thermal Imaging Camera Program)</a>	Residential	Education & Awareness	<p>The See the Heat program provides the opportunity to take home a thermal imaging camera that connects to a smart phone to learn more about the energy efficiency of a home. The idea is that using the cameras will convince residence to adopt energy efficiency measures (e.g., weather stripping, energy efficient appliances, etc.). Kamloops offered a Corporate Program to educate municipal employees, and a community program for residents (cameras were available for borrowing at the library).</p> <p>(The City of Kelowna has received funding from FortisBC to run a similar program, which is expected to kick-off in late-November 2019.)</p>
City of Kamloops	<a href="#">Energy Block Parties</a>	Residential	Education & Awareness	<p>Energy Efficiency Block party funding is available to any Kamloops resident who wants to organize a block party. The funding is applied for through the City's Neighbourhood Matching Fund program. Successful applicants will receive up to \$1,750 to cover the cost of food, music, and entertainment.</p> <p>FortisBC and the City fund these block parties to help neighbourhood associations and community members to build community by bringing people together. FortisBC has rebates to help customers save energy and energy-related costs, and representatives will be at events to talk about the available programs, such as rebates for energy-efficient home renovations.</p>
City of Nanaimo	<a href="#">Real Estate Energy Efficiency Program</a>	Residential	Education & Awareness	<p>The Realtor Energy Efficiency Project (REEP) is a program that educates realtors about energy efficiency benchmarking and home retrofit incentive programs that are available to homeowners. The program consists of a two-hour in-home session, facilitated by both an Energy Advisor (EA) and a REEP project team member. What sets the REEP program apart is the small group format with 20 - 25 realtors per session, providing an opportunity for realtors to learn, ask questions and share stories. Together realtors explore practical ways to incorporate energy efficiency seamlessly into the sales process.</p>

**Attachment C: Example Retrofit Policy and Programs from other BC Municipalities**

Municipality	Program Name	Sector	Category	Description
City of Nelson	<a href="#">The Great Escape (Neighbourhood Thermal Imaging)</a>	Residential	Education & Awareness	The Great Escape is a 1-year initiative implemented by Nelson Hydro to help homeowners discover where heat is escaping and how to improve efficiency, reduce energy consumption and save money. The software MyHeat is used to provide thermal imaging of every residential structure within the community.
City of New Westminster	<a href="#">Energy Save New West – Existing Homes</a>	Residential	Education & Awareness Incentives	Helps residents navigate retrofit opportunities through a five-step process: <ul style="list-style-type: none"> <li>• Step 1: signup for exclusive program resources (e.g., free personalized energy coaching for energy project)</li> <li>• Step 2: subsidized pre-upgrade energy evaluations (\$75 for \$375 value)</li> <li>• Step 3: Home Improvements (i.e., energy saving measures – incentives in Step 5)</li> <li>• Step 4: subsidized post-upgrade energy evaluations (\$150 rebate)</li> <li>• Step 5: Rebates and Incentives for evaluations and energy efficient equipment</li> </ul>
City of Richmond	<a href="#">Richmond Carbon Market</a>	Residential	Financing	A business or organization that is considering projects that will reduce greenhouse gas (GHG) emissions (e.g., energy efficiency building retrofits, fuel switching for buildings and vehicles, renewable energy installations, organics composting and/or land conservation/restoration), may be eligible to access funding from the selling of community carbon credits.  Successful applicants can receive \$25 per ton of carbon dioxide equivalent saved through the program.
City of Vancouver	<a href="#">Energy Efficiency Upgrades in Building Bylaw</a>	Residential	Regulation	In 2014, Vancouver introduced Canada's first energy code/bylaw with energy upgrade requirements for existing buildings. The new requirements were added to the existing upgrade mechanism process used in Part 11 for Life Safety, Seismic, Structural, and Accessibility.  Home Renovation Permit Requirements (Audits & Upgrades): <ul style="list-style-type: none"> <li>• \$5,000 = EnerGuide energy assessment</li> <li>• &gt;\$25,000 = assessment + weather sealing</li> <li>• \$50,000 = assessment + weather sealing + attic insulation.</li> </ul>

**Attachment C: Example Retrofit Policy and Programs from other BC Municipalities**

Municipality	Program Name	Sector	Category	Description
City of Vancouver	<a href="#">Heritage Energy Retrofit Grant</a>	Residential	Incentives	The Heritage Energy Retrofit Grant is designed to support retrofits that deliver measurable reductions in GHG emissions and provide guidance for navigating FortisBC and BC Hydro's Home Renovation Rebate Program. A maximum of \$3,000 is available per home towards qualifying retrofits; or a maximum of \$6,000 per home if fuel switching from gas or oil to an electric air source heat pump, including other retrofits. (the program is currently on hold.)
City of Vancouver	Green Landlord Program (pilot project)	Residential	Information/ Incentives	The City worked with Landlord BC, energy utilities, and an energy consultant to undertake energy and water audits of 23 apartment buildings. The consultant developed retrofit business cases for relatively simple-to-implement improvements leveraging existing utility incentives that, if implemented, would reduce GHG emissions by 16% and pay for themselves through energy savings in 2.5 years. 21 of the 23 landlords committed to undertake the identified improvements.
City of Vancouver	<a href="#">Energy Benchmarking Program</a>	All (large buildings)	Incentives	<p>The City of Vancouver will collect benchmarking data from:</p> <ul style="list-style-type: none"> <li>- Its own buildings</li> <li>- Voluntary participants, primarily large public sector/institutional, commercial, and residential buildings</li> </ul> <p>This data will help the City of Vancouver develop programs and policy to support energy retrofits and measure the performance to the building code.</p>
Regional District of Central Kootenay	<a href="#">Residential Energy Efficiency Program (REEP)</a>	Residential	Education & Awareness  Incentives	A simplified process has been designed to help residents reduce energy costs. Residents can access an energy evaluation to determine what energy efficient upgrades (retrofits) can be done to reduce energy consumption and lower greenhouse gas emissions. Applicants can access current rebate offers, financing options, a local contractor guide and energy coaching.

**Attachment C:** Example Retrofit Policy and Programs from other BC Municipalities

Municipality	Program Name	Sector	Category	Description
Township of Langley	<a href="#">Green Building Rebate Program</a>	Residential	Incentive	<p>If homeowners complete home improvements that reduce annual energy consumption by at least 10 GJ, they can access rebates from the Township.</p> <p>Access \$15 x every 1 GJ/year reduction  Example: \$15 x 25 GJ/Year = \$375 rebate + Subsidized Energuide pre-retrofit home evaluation.</p>
Various	<a href="#">BetterHomesBC Municipal Top Up</a>	Residential	Incentive	<p>A growing number of local governments in BC are offering top-up rebates (Municipal Top-ups) to the CleanBC Better Homes and Home Renovation Rebate Program.</p> <p>Currently there are three top-up options available:</p> <p><b>EnerGuide Home Evaluation Top-up:</b> A \$150 top-up to participants that complete a pre- and post-retrofit EnerGuide home evaluation. This top-up is in addition to the \$300 EnerGuide Home Evaluation rebate available through the CleanBC Better Homes and Home Renovation Rebate Program.</p> <p><b>Convert to Electric Heat Pump Space Heating Top-up:</b> Participants that switch from a fossil fuel (oil, natural gas or propane) space heating system to an electric air-source heat pump (including mini-splits, multi-splits, central, and combination space &amp; water systems) are eligible for either a \$350 or \$2000 top-up rebate. These top-ups are in addition to the individual rebates and the Home Energy Improvement Bonus rebate.</p> <p><b>Convert to Electric Heat Pump Water Heater:</b> Participants that switch from a fossil fuel water heating system to an electric heat pump water heater are eligible for either a \$350 or \$1000 top-up rebate. These top-ups are in addition to the individual rebates and the Home Energy Improvement Bonus rebate.</p> <p><b>Electric Service Upgrade Top-up:</b> \$500</p>



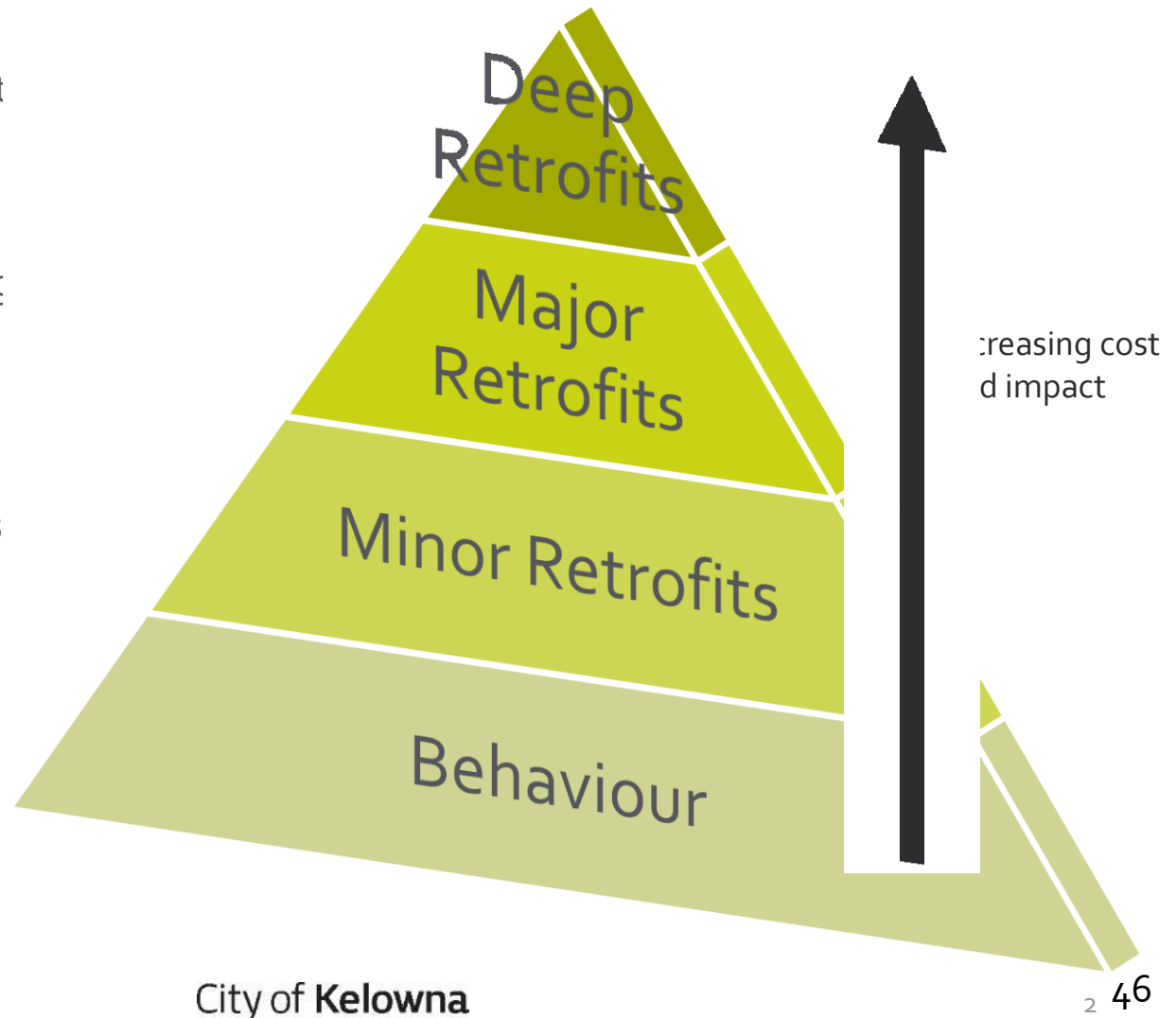
# Community Energy Retrofit Strategy – Options Analysis

December 2, 2019

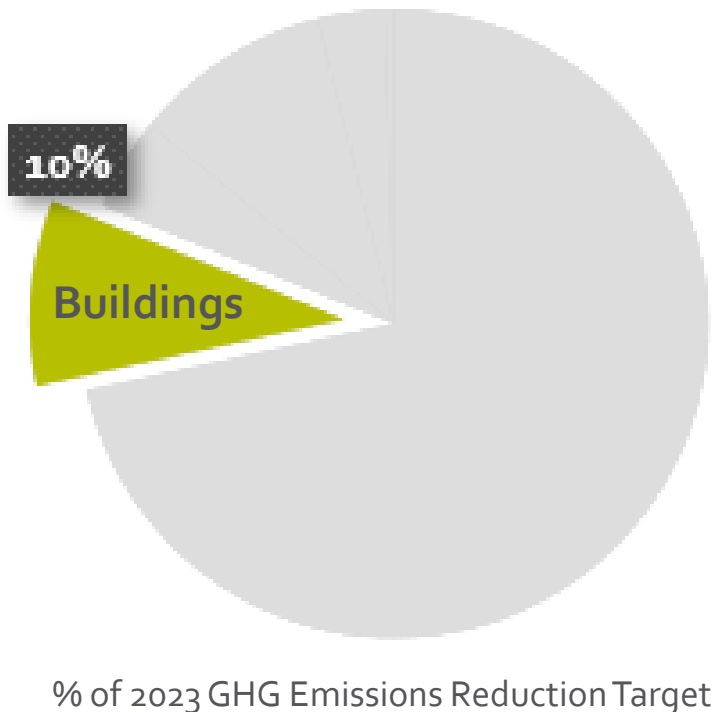


# What is a Retrofit?

- Significantly reconfiguring t
- Rearranging windows for in
- Updating inefficient heating
- Installing low-flow faucets
- Adding attic insulation
- Upgrading lighting systems
- Water temperature
- Thermostat programming

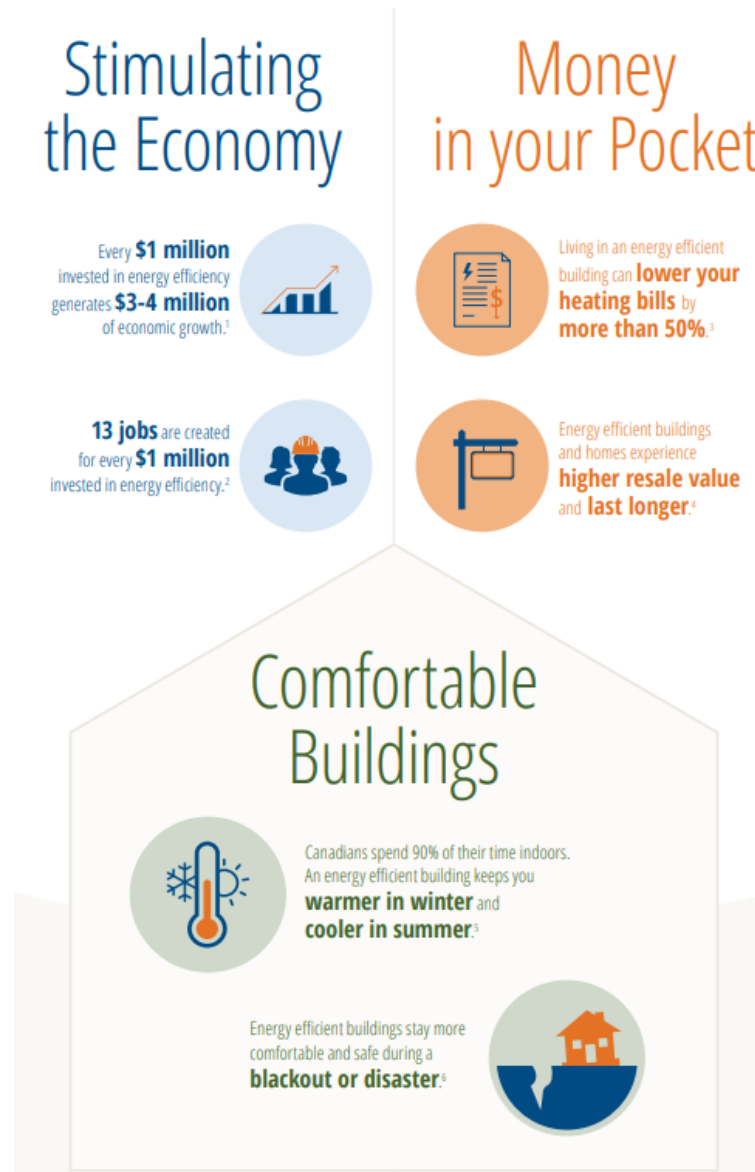


# The Benefit: GHG Emissions Reduction



Existing Building Initiatives	Impact
Develop a Community Energy Retrofit Strategy	4.4%
Partner with Fortis BC on delivery of programs	1.7%
Investigate financing models to support city-wide deep energy retrofits	1.1%
<b>TOTAL</b>	<b>7.2%</b>

# Other Benefits



<https://www.pembina.org/pub/efficient-buildings-infographic>

# The Challenge

To meet the 2023 GHG emissions reduction targets for existing buildings, **1%** of Kelowna's existing residential building stock will need to be retrofitted annually, with each achieving at least a **30 %** improvement in energy efficiency:

**539**

Average # of residential renovation permits in Kelowna between 2014 and 2018:

**669**

# The Challenge

To meet the Provincial GHG Emissions Reduction Targets for existing buildings, **3%** of the existing residential building stock will need to be retrofitted annually, with each achieving at least a **30 %** improvement in energy efficiency:

**1,617**

Average # of residential renovation permits in Kelowna between 2014 and 2018:

**669**

# Other Barriers and Challenges

- High capital cost of energy-efficient upgrades
- Low cost of energy in Kelowna
- Lack of consumer knowledge about the benefits and opportunities
- Lack of skilled and knowledgeable contractors to advocate for and complete energy retrofits
- Lack of jurisdictional authority for municipalities to require energy retrofits.
- “Misplaced incentives” in rental market

# Long-Term Impact





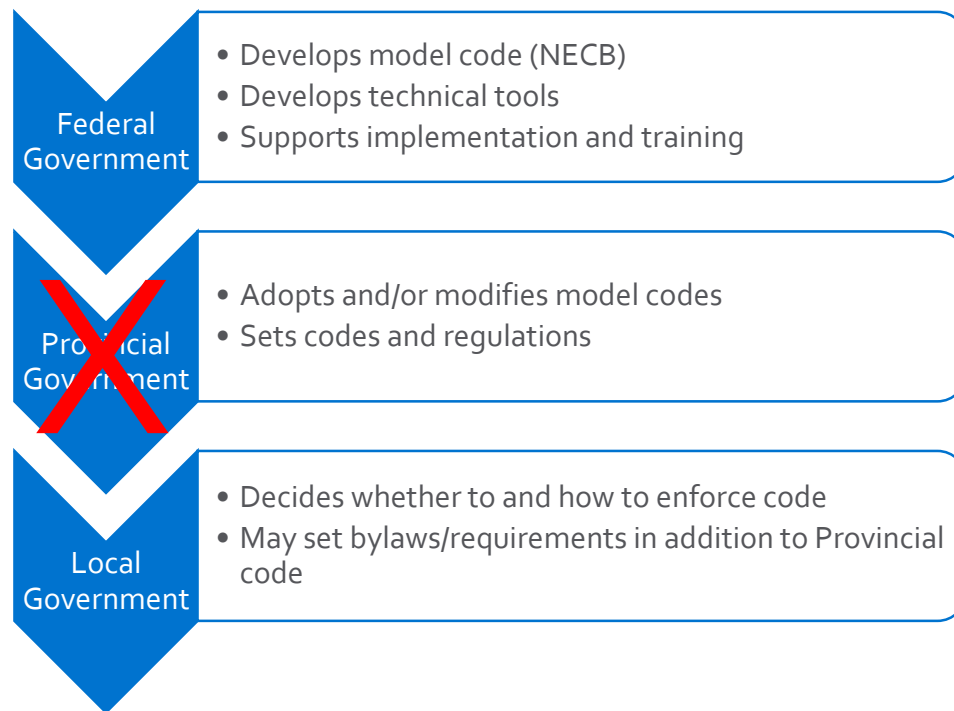
# Options



# Regulation: Energy Codes

“New standards for building upgrades will be developed by 2024, guided by the model National Energy Code.”

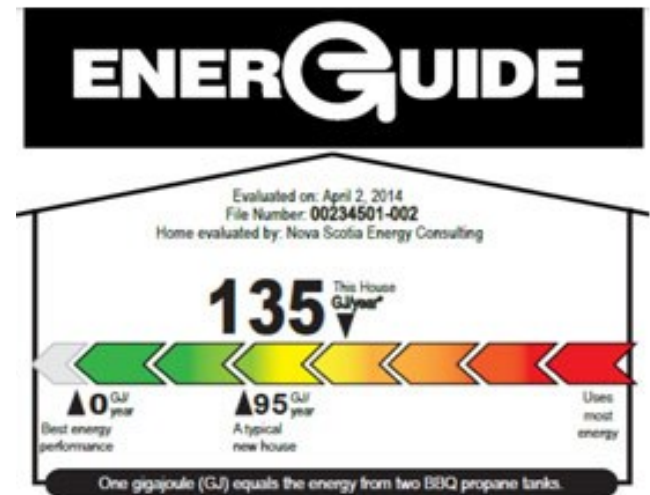
- CleanBC



# Regulation: Vancouver Example

Total Renovation Cost	Energy Retrofit Requirements
Less than \$5,000	None
\$5000 to \$24,999	EnerGuide Home Evaluation
\$25,000 to \$49,999	EnerGuide Home Evaluation + air sealing
More than \$50,000	EnerGuide Home Evaluation + air sealing + improve attic insulation

?



# Incentives

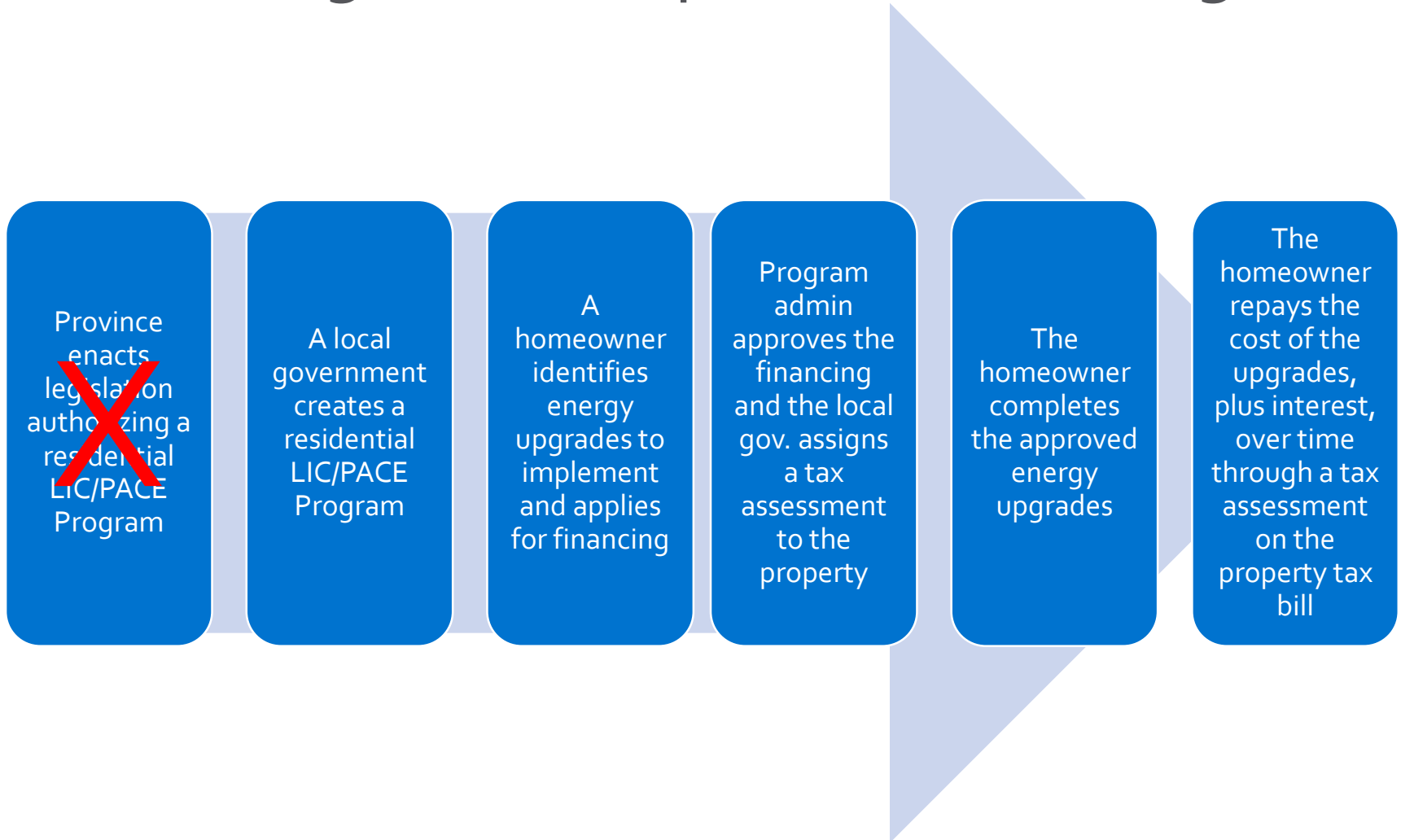
## ► Rebates

1. Support existing Provincial and utility rebates
2. Top-up existing rebates
3. Offer our own unique rebates

## ► Tax Exemptions



# Financing: Local Improvement Charge



# Education and Awareness

	Information Distribution Assets	Educational Assets	Educational Interventions
<b>Description</b>	Simple, punchy messages that culminate into a call to action	<ul style="list-style-type: none"> <li>Digital Asset: information heavy websites.</li> <li>Physical Asset: a location that allows people to see energy-efficient upgrades.</li> </ul>	Capacity building for building owners and industry professionals (i.e., events).
<b>Examples</b>	<ul style="list-style-type: none"> <li>Social media</li> <li>Direct mail</li> </ul>	<ul style="list-style-type: none"> <li>Digital:                             <ul style="list-style-type: none"> <li><a href="http://betterhomesbc.ca">betterhomesbc.ca</a></li> </ul> </li> <li>Physical:                             <ul style="list-style-type: none"> <li>Demonstration site</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Lunch and learns</li> <li>Public access lectures</li> <li>Tours</li> </ul>

# Community Energy Mapping

- **PROJECT:** Partnering with Natural Resources Canada to develop a prototype for an online map-based decision tool for building stock energy efficiency.
- **GOAL:** Make residential energy end-use and efficiency opportunities visible on a map using available, federal, municipal, and open data.
- **VALUE:** Easily identify areas and households that have higher modeled energy usage, so we can prioritize retrofit outreach efforts.





# Recommended Approach

## Recommended Approach: Regulation



Conduct a legal assessment to determine if the City can require an EnerGuide Assessment at the time of renovation permit.



Seek clarity from the Province on the direction regarding local government jurisdiction for benchmarking and home energy labelling.

# Recommended Approach: Incentives



Expand Kelowna's rebate top-ups to the Province's CleanBC rebates.



Explore options to link energy retrofits with upgrades of buildings on Kelowna's Heritage Register.

Recommended  
Approach:  
Financing



# Recommended Approach: Education & Awareness



Expand education / awareness initiatives.



Continue the development of a prototype community energy end-use map with NRCan.

# Summary

- ▶ The Community Energy Retrofit Strategy is a key component of the *Community Climate Action Plan*, and has many other benefits.
- ▶ There are various options for the City to help reduce energy and GHG emissions from existing buildings.
- ▶ In developing the Strategy, the City needs to consider its limited authority, while also taking a leadership role to ensure retrofits are occurring at the required rate.



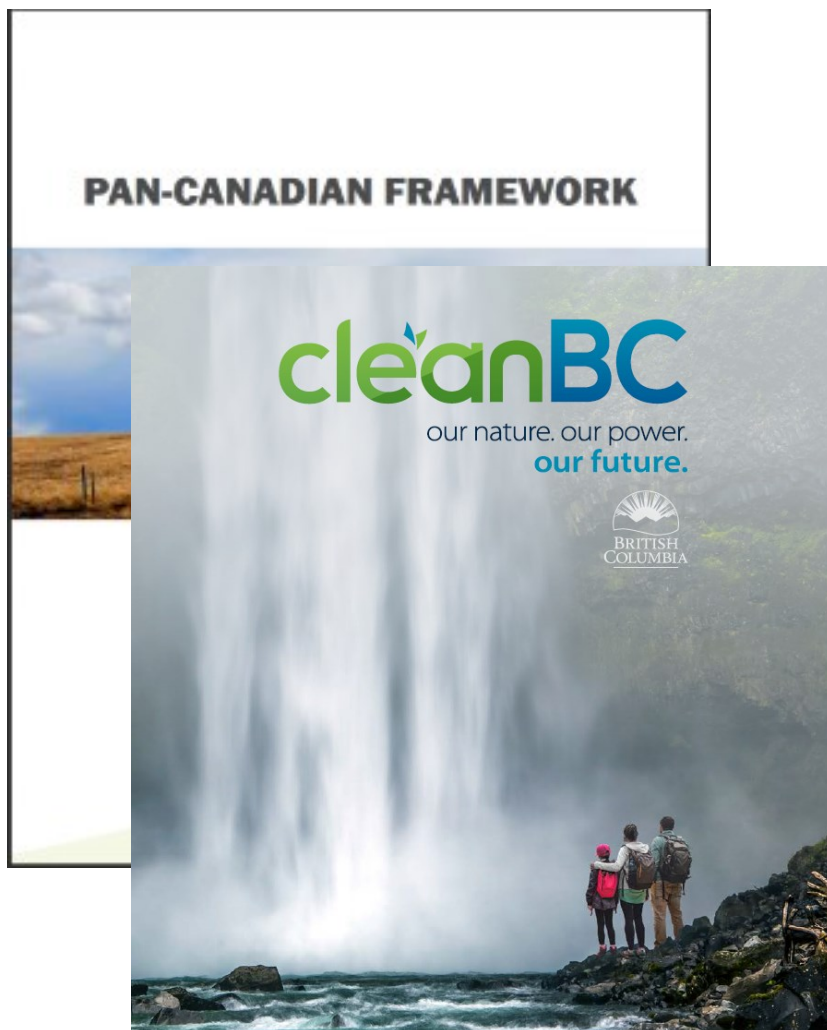
# *Questions?*

**Chris Ray**

Community Energy Specialist | City of Kelowna  
250-469-8825 | [cray@kelowna.ca](mailto:cray@kelowna.ca)

For more information, visit **kelowna.ca**.

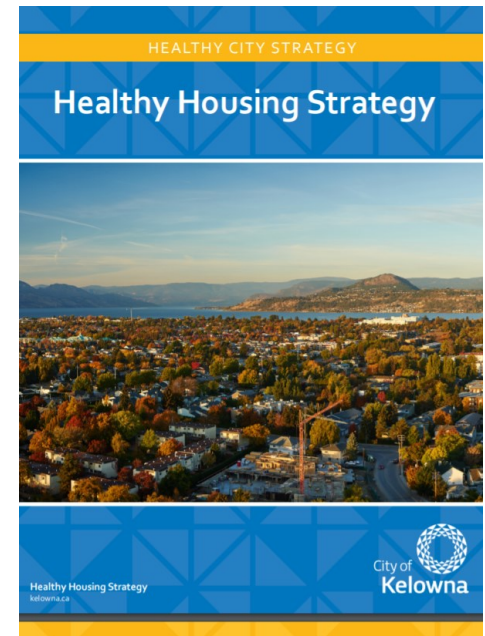
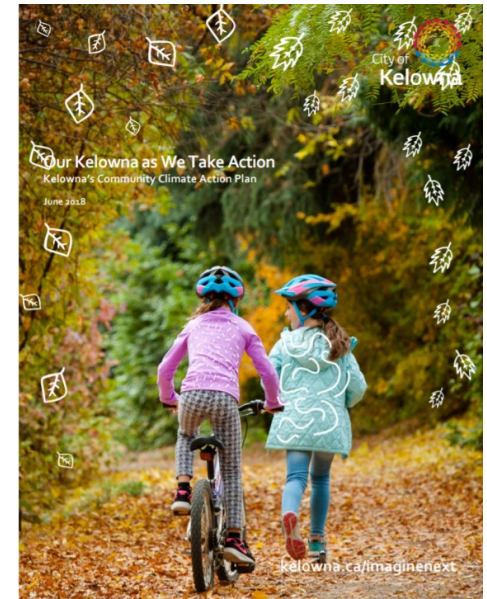
# National and Provincial direction



- ▶ Pan Canadian Framework
  - ▶ Federal plan to reduce GHGs
  - ▶ Retrofitting existing buildings
  
- ▶ Clean BC
  - ▶ Provincial plan to reduce GHGs and energy
  - ▶ Indications of a Retrofit Code for existing buildings, and home energy labelling

# Delivering on our plans

- ▶ Kelowna's Community Climate Action Plan
  - ▶ Develop a Community Energy Retrofit Strategy
  - ▶ Partner with Fortis BC on delivery of Programs
  - ▶ Investigate financing models to support city-wide deep energy retrofits
- ▶ Kelowna's Healthy Housing Strategy
  - ▶ Implement Step Code to increase energy efficiency and reduce household carrying costs.



# Council Priority: Environmental Protection

- ▶ Goal: adaptable in the face of climate change
  - ▶ Greenhouse gas emissions are decreasing
  - ▶ Resiliency & adaptability to climate change



# Report to Council



**Date:** December 2, 2019  
**To:** Council  
**From:** City Manager  
**Subject:** Fall 2019 Rental Housing Agreement Bylaws  
**Department:** Policy and Planning

---

## **Recommendation:**

THAT Council, receives, for information, the Report from the Planner Specialist dated December 2, 2019 recommending that the City of Kelowna enter into three (3) Housing Agreements to secure 100 purpose-built rental housing units;

AND THAT Bylaw No. 11955 authorizing a housing agreement between the City of Kelowna and Mission Group Homes Ltd. Which requires the owners to designate 48 dwelling units in a purpose-built rental housing for Lot A, District Lot 14, ODYD, Plan EPP92146, at 454-464 West Avenue, Kelowna, BC.

AND THAT Bylaw No. 11956 authorizing a housing agreement between the City of Kelowna and Whitworth Holdings Ltd. Which requires the owners to designate 16 dwelling units in a purpose-built rental housing for Lot 3, Section 6, Township 26 ODYD, Plan 4912, at 4119 Lakeshore Road, Kelowna, BC.

AND THAT Bylaw No. 11958 authorizing a housing agreement between the City of Kelowna and Culos Development Inc. Which requires the owners to designate 36 dwelling units in a purpose-built rental housing for Lot 2, S19, TWP 26, ODYD, Plan 17148 and Lot "A", D.L. 137, ODYD, Plan 28311, and Lot 7 & Lot 8, D.L. 137, ODYD, Plan 2498, at 1165 Sutherland Avenue, Kelowna, BC.

## **Purpose:**

To authorize the City to enter into a Housing Agreement with Mission Group Homes Ltd., Whitworth Holdings Ltd. and Culos Development Inc. for purpose-built rental housing projects that are pursuing rental housing incentives.

## **Background:**

In order to be eligible to receive a rental housing revitalization tax exemption or a rental housing grant, a housing agreement must be in place to secure the purpose-built rental housing units for a minimum of ten years.

**Discussion:**

The West Ave and Lakeshore Road projects are applying for rental housing revitalization tax exemptions and the Sutherland Avenue project is looking to receive its approved rental housing grant. The rental housing agreements will ensure these three projects that are pursuing the City's rental housing incentives are secured for long-term rental housing. The housing agreements become bylaw upon approval from Council, ensuring the 100 units will operate as purpose-built rental housing for a minimum of ten years. After ten years, if a landowner intends to lift an agreement, Council approval is required.

Because the Housing Agreement is a requirement for eligibility to receive the tax exemption, staff coordinated the housing agreement report with the forthcoming revitalization tax exemption agreement report as the two have a direct relationship.

**Conclusion:**

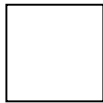
The housing agreements are a key tool for the City to secure long-term rental housing units in Kelowna.

***Legal/Statutory Authority:***

*Local Government Act, Section 483.*

Submitted by: R.Soward, Planner Specialist

Approved for inclusion:



James Moore, Manager of Long Range Planning

# CITY OF KELOWNA

## BYLAW NO. 11955

### **Housing Agreement Authorization Bylaw – Mission Group Rentals Ltd., Inc. No. BC1151526 454 – 464 West Avenue**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with West Avenue - Mission Group Rentals Ltd., Inc. No. BC1151526 for the lands known as Lot A District Lot 14 ODYD Plan EPP92146 located on West Avenue, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

---

City Clerk

**PURPOSE-BUILT RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference August 20<sup>th</sup>, 2019 affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

*LOT A, DISTRICT LOT 14, OSOYOOS DIVISION YALE DISTRICT, PLAN EPP92146*

("Land")

And is

**BETWEEN: WEST AVENUE – MSSION GROUP RENTALS LTD**

1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

**GIVEN THAT:**

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons 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;
- (c) 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
- (d) a combination of (b) and (c), 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 Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

**1.2 Interpretation** - In this Agreement:

- (a) 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) 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;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing 48 Dwelling Units as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

**ARTICLE 4  
GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;

- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - 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 land,
- (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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling 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 Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected

officials, officers, directors, employees and agents, and its and their 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 advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

- 4.8 **Joint Venture** – 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.
- 4.9 **Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 **Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 **Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 **No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 **Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 **Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 416 **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in  
the presence of:

  
\_\_\_\_\_  
Signature of Witness

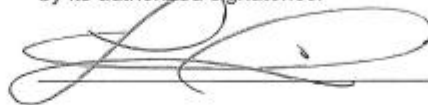
ARPAN KANDOLA  
\_\_\_\_\_  
Print Name

1000-1631 DICKSON AVENUE, KELOWNA  
\_\_\_\_\_  
Address

DEVELOPMENT COORDINATOR  
\_\_\_\_\_  
Occupation

"OWNER"

by its authorized signatories:

  
\_\_\_\_\_

LUKE TURRI  
\_\_\_\_\_  
Print Name:

WEST AVENUE - MISSION GROUP RENTALS LTD.  
\_\_\_\_\_

\_\_\_\_\_  
Print Name:

SIGNED, SEALED & DELIVERED in  
the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

CITY OF KELOWNA

by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11956

### **Housing Agreement Authorization Bylaw Whitworth Holdings Ltd., Inc. No. BC1059455 4119 Lakeshore Road**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Whitworth Holdings Ltd., Inc. No. BC1059455 for the lands known as Lot 3 Section 6 Township 26 ODYD Plan 4912 Except Plan EPP93973 located on Lakeshore Road, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

**PURPOSE-BUILT RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference November 18, 2019 affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

Lot 3 Section 6 Township 26 ODYD Plan 4912

("Land")

And is

**BETWEEN: Whitworth Holdings Ltd.**

with offices at 103, 1054 Ellis Street, Kelowna, British Columbia, V1Y 1Z1

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons 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;
- (c) 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
- (d) a combination of (b) and (c), 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 Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### 1.2 Interpretation - In this Agreement:

- (a) 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) 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;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing 26 Dwelling Units as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

**ARTICLE 4  
GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the

Land;

- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - 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 land,
- (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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling 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 Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

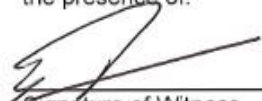
**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages,

actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

- 4.8 **Joint Venture** – 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.
- 4.9 **Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 **Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 **Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 **Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 **No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 **Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 **Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 **Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in  
the presence of:

  
\_\_\_\_\_  
Signature of Witness

Cameron J. Costley  
\_\_\_\_\_  
Print Name

#103 - 1054 Elliot Street  
\_\_\_\_\_  
Address Kelowna BC V1Y 1Z1

\_\_\_\_\_  
Occupation

"OWNER"

by its authorized signatories:

  
\_\_\_\_\_

KATE STEWART  
\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

SIGNED, SEALED & DELIVERED in  
the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

CITY OF KELOWNA

by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11958

### **Housing Agreement Authorization Bylaw Culos Development (1996) Inc., Inc. No. BC1099204 1165 Sutherland Avenue**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Culos Development (1996) Inc., Inc. No. BC1099204 for the lands known as Lot A District Lot 137 ODYD Plan EPP88875 located on Sutherland Avenue, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

**PURPOSE-BUILT RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

Proposed Strata Lots #6 to #41 ( inclusive ) of the subdivision of:

Lot "A" , District Lot 137, Osoyoos Division Yale District, Plan EPP88875

("Land")

And is

**BETWEEN:** CULOS DEVELOPMENT (1996) INC.  
#106 - 1449 St. Paul Street,  
Kelowna, B.C. V1Y2E5

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

**GIVEN THAT:**

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons 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;
- (c) 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
- (d) a combination of (b) and (c), 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 Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

**1.2 Interpretation - In this Agreement:**

- (a) 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) 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;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;

- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

### **2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing **36 Dwelling Units** as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

### **3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

### **3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

## **ARTICLE 4 GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - 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 land,
- (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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling 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 Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their 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 advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – 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.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 416 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

CULOS DEVELOPMENT (1996) INC.  
by its authorized signatory:

\_\_\_\_\_  


Michael A. Culos  
Print Name: Michael A. Culos  
President

SIGNED, SEALED & DELIVERED in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

CITY OF KELOWNA  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# Report to Council



**Date:** December 2, 2019  
**To:** Council  
**From:** City Manager  
**Subject:** Revitalization Tax Exemption Agreements – Fall 2019  
**Department:** Policy and Planning

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**Recommendation:**

THAT Council, receives, for information, the Report from the Planner Specialist dated December 2, 2019 recommending that Council adopt the six Revitalization Tax Exemption Agreements;

AND THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with West Avenue - Mission Group Homes Ltd, for Lot A, District Lot 14, ODYD, Plan EPP92146, at 454-464 West Avenue, Kelowna, BC;

AND THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Simple Pursuits Ltd., for Lot B, District Lot 128, ODYD Plan KAP83889, at 2080 Benvoulin Court, Kelowna, BC;

AND THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Whitworth Holdings Ltd., for Lot 3 Section 6 Township 26 ODYD, Plan 4912, at 4119 Lakeshore Road, Kelowna, BC;

AND THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Drysdale Blvd Kelowna Apartments 2019 LTD, for Lot 2, Section 33 Township 26 ODYD, Plan EPP48909 at 333 Drysdale Boulevard, Kelowna, BC;

AND THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Ella-Mission Group Homes Ltd, for Lot 1, PlanEPP78300 District Lot 139, ODYD, Plan EPP82631, Volumetric SRW; PID 030-380-499 at 1588 Ellis Street, Kelowna, BC;

AND FURTHER THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Mission Group Holdings Ltd, for Lot A, District Lot 139, ODYD, Plan EPP81417 at 1471 St. Paul Street, Kelowna, BC.

[Recommendation]

**Purpose:**

To bring forward six 10-year Revitalization Tax Exemption Agreements for multi-family housing projects identified in the report from the Planner Specialist, dated December 2, 2019 in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

**Background:**

The City's Revitalization Tax Exemption (RTE) bylaw provides 10-year tax exemptions as an incentive to achieve two different objectives: catalyzing urban centre development, and supporting purpose-built rental housing. More specifically, the City provides opportunities for mixed-use developments to pursue tax exemptions within designated areas in the Downtown and Rutland urban centres. Also, long-term (purpose-built) rental housing projects within the Core Area and identified Village Centres are eligible to apply for a tax exemption to promote a healthy rental housing market.

**Discussion:**

Four of the RTE applications are for 10-year revitalization tax exemptions for purpose-built rental housing where the proponent must meet the following requirements:

1. Subject property is located within one of the following areas: Core Area of Kelowna, Glenmore Valley Village Centre, or University South Village Centre as defined by the OCP, Bylaw 10500.
2. The subject property has a Housing Agreement (for a minimum of 10 years)
3. Development in compliance with the OCP Future Land Use designation

Three of the proposed rental housing projects (West Avenue, Drysdale Boulevard and Benvoulin Court) meet all criteria for rental housing RTE applications. These projects have housing agreements in place with the City of Kelowna (subject to Council approval) and are located within the Core Area of Kelowna or Glenmore Valley Village Centre. A draft copy of each of these RTE agreements is attached for additional details.

The fourth rental housing project (4119 Lakeshore Road) that is applying for the rental housing RTE is located just outside of the Core Area as defined by the current Official Community Plan, Bylaw 10500. The 4119 Lakeshore Road project began the development permit approval process for a purpose-built rental in the Spring of 2019, and at that time the project met all criteria for a rental housing tax exemption under the RTE bylaw. Subsequently, the program was updated, introducing the Core Area location requirement and the project no longer met all the criteria. Staff are recommending the project be grandfathered under the terms of the previous bylaw, as the proponent had always intended to apply for the rental housing exemption and had a reasonable expectation that they would be eligible for the program under the RTE Bylaw at the time they applied for their development permit. It is also worth noting that the draft 2040 OCP has expanded the Core Area and that this project is situated within that expanded area, which suggests that the application is generally consistent with the City's long-term policy direction.

The other two projects (Ellis Street and St Paul Street) are applying under the City Centre (downtown) revitalization component of the RTE program. The two mixed-use residential projects are both within Tax Incentive Area 2 and meet the following requirements:

1. Subject property is in the designated downtown geographic area
2. Mixed-use development meets the minimum floor area of 40,000 square feet

Although these Revitalization Tax Exemptions support city priorities related to downtown investment and long-term rental housing, the RTE program does come at a financial cost. Staff estimate the annual tax revenue impact associated with the exemption for the six projects and 615 housing units to be approximately \$465,000. The annual revenue impact for each of the projects is estimated in the table below.

Property	Project Details	Estimated Annual Revenue Impact	Tax Area
454-464 West Avenue	48 long-term rental units	\$35,000	Rental Housing
4119 Lakeshore Road	16 long-term rental units	\$10,000	Rental Housing
2080 Benvoulin Court	82 long-term rental units	\$45,000	Rental Housing
333 Drysdale Boulevard	175 long-term rental units	\$125,000	Rental Housing
1588 Ellis Street	116 strata residential units and 6,000 sq. ft retail	\$130,000	Downtown Tax Area 2
1471 St Paul Street	178 strata residential units and 2,600 sq. ft retail	\$120,000	Downtown Tax Area 2

#### **Conclusion:**

In closing, by encouraging development through the Revitalization Tax Exemption program, the City is advancing the Council priority of building vibrant neighbourhoods and encouraging the creation of more affordable and attainable housing options.

#### **Internal Circulation:**

Supervisor, Revenue  
Divisional Director, Planning & Development Services  
Department Manager, Policy & Planning  
Manager, Long Range Policy Planning

#### **Legal/Statutory Authority:**

Revitalization Tax Exemption Program Bylaw No. 9561, 2006  
Community Charter, Division, Section 226

#### **Legal/Statutory Procedural Requirements:**

The Revitalization Tax Exemption Bylaw No. 9561 supports municipal tax incentives for purpose-built rental housing and mixed-use projects in designated areas of the Downtown.

**Existing Policy:**

Official Community Plan Bylaw No. 10500

Revitalization Tax Exemption Program Bylaw No. 9561

**Submitted by:** R. Soward, Planner Specialist

**Approved for inclusion:** J. Moore, Department Manager of Long Range Policy Planning

**Attachments:**

- A. Draft RTE Agreement 1471 St. Paul Street
- B. Draft RTE Agreement 1588 Ellis Street
- C. Draft RTE Agreement 333 Drysdale Boulevard
- D. Draft RTE Agreement 464 West Avenue
- E. Draft RTE Agreement 2080 Benvoulin Court
- F. Draft RTE Agreement 4119 Lakeshore Road

BL10566, BL10674 & BL11457 amended SCHEDULE "B" and BL10974 & BL11854 replaced SCHEDULE "B":

**SCHEDULE "B"**  
**Revitalization Tax Exemption Agreement**

THIS AGREEMENT dated for reference the 30 day of September 2019 is

**BETWEEN:**

**MISSION GROUP HOLDINGS LTD**

1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5

(the "Owner")

**AND:**

**CITY OF KELOWNA**

1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

(the "City")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at *1471 St. Paul Street* legally described as *LOT A, District Lot 139, Osoyoos Division Yale District, Plan EPP81417* (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
  - a. Include 25-storey concrete high-rise tower on St. Paul Street.
  - b. Include up to 178 residential units, including 1-bedroom, 1-bedroom with den, 2-bedroom, and 2-bedroom with den.

- c. Include up to 3 commercial retail units on ground floor of building.
- d. Floor area of residential to be 124,283.98 square feet and commercial to be 2,601.64 square feet.
- 2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
- 3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
- 4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in the Tax Exemption Certificate .
- 5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - a. The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
  - b. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
  - c. The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
- 6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to *100% of the Revitalization Amount on the Parcel as per Tax Incentive Area 2.*
  - a) For “Tax Incentive Area 2,”
    - i. 100% of the Revitalization Amount on the Parcel, for a project with a minimum floor area of 3,716 m<sup>2</sup> (40,000 sq. ft.);
    - ii. 75% of the Revitalization Amount on the Parcel which can be attributed to a residential land use, and/or 50% of the Revitalization Amount on the Parcel which can be attributed to a commercial land use, for a project with a minimum floor area of less than 3,716 m<sup>2</sup> (40,000 sq. ft.);
- 7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,

8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.
9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:

- a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
- b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

10. **Termination of the agreement** - the revitalization tax exemption agreement will be valid for 48 months from the date the agreement is executed by Council. If the conditions for issuance of a Tax Exemption Certificate have not been met during this term, the owner may request a renewal term to this agreement, or the agreement will be terminated.
11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:
- a. on the written request of the Owner; or
  - b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
  - c. If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:

- a. in the case of a notice to the City, at:

THE CITY OF KELOWNA  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

Attention: Revenue Department  
Email: revenue@kelowna.ca

- b. in the case of a notice to the Owner, at:

*Luke Turri*  
1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5

Attention: Luke Turri  
Phone: 250-470-7617  
Email: lturri@missiongroup.ca

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Owner shall not assign its interest in this agreement except to a subsequent owner in fee simple of the Parcel.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
- a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or

- c. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each 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.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
22. Any construction of a new improvement or alteration of an existing improvement as of this bylaw undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration
23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
- a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
  - b. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.
24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by  
Its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Executed by **MISSION GROUP HOLDINGS LTD.** by its Authorized signatories:

  
Name: Luke Turri

  
Name: Arpan Kandola (Witness)

Appendix "A": Plans and Specifications  
Appendix "B": Performance Criteria

THE BROOKLYN - 1471 ST. PAUL STREET - CONDOMINIUM DEVELOPMENT

MISSION GROUP DEVELOPMENT



Project Statistics

STREET ADDRESS  
1471 St. Paul Street, Kelowna, BC  
LOT 27 to 29, PLAN 800, LOT 1, PLAN 800B;  
AND LOT 2 AND 3, PLAN 111, ALL OF DISTRICT LOT 139, C.D.V.O.

LEGAL DESCRIPTION  
C7

ZONING  
C7

SITE AREA  
1955.50 sqm

SITE COVERAGE  
74.5m (Top of Slope Level 25)

BUILDING HEIGHT  
74.5m (Top of Slope Level 25)

SETBACKS  
WEST (FRONT)  
SOUTH (LANE)  
EAST (LANE)  
NORTH

BASE  
8.0m (2.97)  
8.0m (2.97)  
13.38m (43.9')  
5.0m (16.4')

TOWER  
8.0m (2.97)  
10.65m (35.0')  
13.38m (43.9')  
5.0m (16.4')

FAIR  
6,039

FLOOR AREA CALCULATIONS

# of Stories  
Level 1  
Level 2  
Level 3  
Level 4  
Level 5  
Level 6  
Level 7  
Level 8  
Level 9  
Level 10  
Level 11  
Level 12  
Level 13  
Level 14  
Level 15  
Level 16  
Level 17  
Level 18  
Level 19  
Level 20  
Level 21  
Level 22  
Level 23  
Level 24  
Level 25  
Totals

Floor Plate Area (sqm)  
241.7

CRU Area

1 Bedroom + Den  
2 Bedrooms + Den  
3 Bedrooms + Den  
4 Bedrooms + Den  
5 Bedrooms + Den  
6 Bedrooms + Den  
7 Bedrooms + Den  
8 Bedrooms + Den  
9 Bedrooms + Den  
10 Bedrooms + Den  
11 Bedrooms + Den  
12 Bedrooms + Den  
13 Bedrooms + Den  
14 Bedrooms + Den  
15 Bedrooms + Den  
16 Bedrooms + Den  
17 Bedrooms + Den  
18 Bedrooms + Den  
19 Bedrooms + Den  
20 Bedrooms + Den  
21 Bedrooms + Den  
22 Bedrooms + Den  
23 Bedrooms + Den  
24 Bedrooms + Den  
25 Bedrooms + Den  
Totals

UNIT STATISTICS

PARKING

BICYCLE PARKING

Residential  
Commercial  
Visitor  
Total

115  
13  
3  
131

115  
13  
3  
131

115  
13  
3  
131

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Drawing List

Architectural

A-001

Cover

Site Plan and Survey

Level 01 Plan

Level 02 Plan

Level 03 Plan

Level 04 Plan

Level 05 Plan

Level 06 Plan

Level 07 - 20 Plan

Level 21 Plan

Level 22 Plan

Level 23 Plan

Level 24 Plan

Level 25 Plan

Roof Plan

Level 01 Sub Plan

Level 02 Sub Plan

Level 03 Sub Plan

Level 04 Sub Plan

Level 05 Sub Plan

Level 06 Sub Plan

Level 07 - 20 Sub Plan

Level 21 Sub Plan

Level 22 Sub Plan

Level 23 Sub Plan

Level 24 Sub Plan

Level 25 Sub Plan

Roof Sub Plan

Building Code Data

MAJOR OCCUPANCY

GOVERNING CODE PART

GRADE ELEVATION

BUILDING AREA

BUILDING HEIGHT

SPRINKLERS

NON COMBUSTIBLE CONSTRUCTION REQD

FACING NO. OF STREETS

BASIC CODE CLASSIFICATIONS

TOTAL OCCUPANT LOAD (persons)

FIRE ALARM REQUIRED

STANDPIPE REQUIRED

EMERGENCY POWER SUPPLY DURATION

HIGH RISE BUILDING

SMOKE CONTROL MEASURES (A thru N)

FREIGHTER ELEVATOR REQD

EMERGENCY GENERATOR REQD

EMERGENCY LIGHTING REQUIRED

EXT SMOKE REQUIRED

FIRE PUMPS REQUIRED

ALTERNATIVE SOLUTIONS PROPOSED

INTERCONNECTED FLOOR SPACE

Project Team

Client

Landscaper

Energy Modelling

Architectural

Structural

Mechanical

Electrical

Plumbing

Fire Protection

Code

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

CFE Engineering Inc.

NSDA  
ARCHITECTS

70-131 Main St  
Kelowna, BC V1Y 1C1  
Canada V8S 2M4  
Tel: 250.863.2241  
Fax: 250.863.2241  
www.nsda.ca

The Brooklyn Tower  
1471 St. Paul Street  
Kelowna, B.C.

Sheet Title  
COVER

Project Number  
18004

Scale

Sheet Number  
A-001



MISSION  
GROUP

Ross Soward  
Planner Specialist, City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

September 30<sup>th</sup>, 2019

**RE: Revitalization Tax Exemption Application for 1471 St. Paul Street (Brooklyn)**

Dear Mr. Soward,

The following application is for our concrete high-rise located on 1471 St. Paul Street. The subject property is zoned C7 and the OCP future land use designation is MXR – Mixed-Use (Residential/Commercial). The property does not include a building listed on the City of Kelowna Heritage Register and is not currently receiving a municipal tax exemption. The value of the project exceeds the minimum threshold for the Revitalization Tax Exemption program.

*Project Details:*

Site area: 1955.50 m<sup>2</sup> / 21,048.83 Square Feet

Total residential area: 11,546.36 m<sup>2</sup> / 124,283.98 Square Feet

Retail floor area: 241.7 m<sup>2</sup> / 2,601.64 Square Feet

Number of storeys: 25

Construction type: Concrete

Number of apartment suites:

One-bedroom: 64 suites

One-bedroom plus den: 32 suites

Two-bedroom: 73 suites

Two-bedroom plus den: 9 suites

Total: 178 suites

BUILD IT FORWARD

Landmark Six - 10th Floor  
1000-1631 Dickson Ave, Kelowna, BC V1Y 0B5  
T 250.448.8810 | [missiongroup.ca](http://missiongroup.ca)

BL10566, BL10674 & BL11457 amended SCHEDULE "B" and BL10974 & BL11854 replaced SCHEDULE "B":

**SCHEDULE "B"**  
**Revitalization Tax Exemption Agreement**

THIS AGREEMENT dated for reference the 12 day of August 2019 is

**BETWEEN:**

ELLA-MISSION GROUP HOMES LTD.  
1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5  
(the "Owner")

**AND:**

CITY OF KELOWNA  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4  
(the "City")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at *1588 Ellis Street* legally described as *LOT 1, PLAN EPP78300, DISTRICT LOT 139, OSOYOOS DIV OF YALE LAND DISTRICT; PLAN EPP82631, VOLUMETRIC SRW; PID 030-380-499* (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
  - a. Include 20-storey concrete high-rise tower on Ellis Street.
  - b. Include up to 116 residential units, including studio, 1-bedroom, and 2-bedroom.

- c. Include up to 6 commercial retail units on ground floor of building.
  - d. Floor area of residential to be 125,071 square feet and commercial to be 5,931 square feet.
2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in the Tax Exemption Certificate .
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - a. The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
  - b. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
  - c. The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to *100% of the Revitalization Amount on the Parcel as per Tax Incentive Area 2.*
  - a) For “Tax Incentive Area 2,”
    - i. 100% of the Revitalization Amount on the Parcel, for a project with a minimum floor area of 3,716 m<sup>2</sup> (40,000 sq. ft.);
    - ii. 75% of the Revitalization Amount on the Parcel which can be attributed to a residential land use, and/or 50% of the Revitalization Amount on the Parcel which can be attributed to a commercial land use, for a project with a minimum floor area of less than 3,716 m<sup>2</sup> (40,000 sq. ft.);
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,

8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.
9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:
- a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
  - b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

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11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:
- a. on the written request of the Owner; or
  - b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
  - c. If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:
- a. in the case of a notice to the City, at:  
  
THE CITY OF KELOWNA  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4  
  
Attention: Revenue Department  
Email: revenue@kelowna.ca
  - b. in the case of a notice to the Owner, at:  
  
*Luke Turri*  
1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5  
  
Attention: Luke Turri  
Phone: 250-470-7617  
Email: lturri@missiongroup.ca
- Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.
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15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
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18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
- a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or

- c. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each 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.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
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23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
- a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
  - b. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.
24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by  
Its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Executed by *ELLA - Mission Group Homes Ltd.* by its Authorized signatories:

Name: *LUKE TURRI*

Name: *ARPAN KANDOLA*

Appendix "A": Plans and Specifications  
Appendix "B": Performance Criteria





Ross Soward  
Planner Specialist, City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

August 12<sup>th</sup>, 2019

**RE: Revitalization Tax Exemption Application for 1580 Ellis Street (in process of being changed to 1588 Ellis Street)**

Dear Mr. Soward,

The following application is for our concrete high-rise located on 1588 Ellis Street. The subject property is zoned C7 and the OCP future land use designation is MXR – Mixed-Use (Residential/Commercial). The property does not include a building listed on the City of Kelowna Heritage Register and is not currently receiving a municipal tax exemption. The value of the project exceeds the minimum threshold for the Revitalization Tax Exemption program.

*Project Details:*

Site area: 17,988 SF/ 1,671 m<sup>2</sup>

Total residential area: 10,769 m<sup>2</sup>

Retail floor area: 548 m<sup>2</sup>

Number of storeys: 20

Construction type: Concrete

Number of apartment suites:

    Studio: 14 suites

    One-bedroom: 14 suites

    Two-bedroom: 56 suites

    Two-bed (Greater than 1,000 SF): 32 suites

    Total: 116

BUILD IT FORWARD

Landmark Six - 10th Floor  
1000-1631 Dickson Ave, Kelowna, BC V1Y 0B5  
T 250.448.8810 | [missiongroup.ca](http://missiongroup.ca)

BL10566, BL10674, BL11457, BL10974, BL11854 & BL11912 amended SCHEDULE "B":

**SCHEDULE "B"**  
**Revitalization Tax Exemption Agreement**

THIS AGREEMENT dated for reference the 14 day of November, 2019 is

**BETWEEN:**

**DRYSDALE BLVD KELOWNA APARTMENTS 2019 LTD**  
500/1708 Dolphin Avenue  
Kelowna, B.C.  
V1Y 9S4

**AND:**

**CITY OF KELOWNA**  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

(the "City")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at 333-337 Drysdale Boulevard, Kelowna legally described as Lot 2, Section 33 Township 26 Osoyoos Division, Yale District Plan EPP48909 (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
  - a. Provide 175 purpose-built rental apartments in a mix of studio, 1 bedroom and 2 bedroom layouts
- 2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.

3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in the Tax Exemption Certificate .
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - a. The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
  - b. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
  - c. The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to:
  - a) For Purpose-Built Rental Housing Projects within the Core Area, Glenmore Valley Village Centre and University South Village Centre as defined by the OCP, 100% of the Revitalization Amount on the parcel, for projects that are subject to a Housing Agreement (for a minimum of 10 years) and where the proposed project is in compliance with the OCP Future Land Use designation at the time of Revitalization Tax Exemption application.
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,
8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.
9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:
  - a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or

- b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

- 10. **Termination of the agreement** - the revitalization tax exemption agreement will be valid for 48 months from the date the agreement is executed by Council. If the conditions for issuance of a Tax Exemption Certificate have not been met during this term, the owner may request a renewal term to this agreement or the agreement will be terminated.
- 11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:
  - a. on the written request of the Owner; or
  - b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
  - c. If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

- 12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.
- 13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:
  - a. in the case of a notice to the City, at:

THE CITY OF KELOWNA  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

Attention:  
Phone: Email:

- b. in the case of a notice to the Owner, at:

DRYSDALE BLVD KELOWNA APARTMENTS 2019 LTD  
500/1708 Dolphin Avenue  
Kelowna, B.C.  
V1Y 9S4

Attention: Matt Butler  
Phone: 778-484-4949  
Email: [mbutler@traine.ca](mailto:mbutler@traine.ca)

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Owner shall not assign its interest in this agreement except to a subsequent owner in fee simple of the Parcel.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
  - a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or
  - c. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each 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.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
22. Any construction of a new improvement or alteration of an existing improvement as of this bylaw undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration
23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
  - a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
  - a. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.

24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

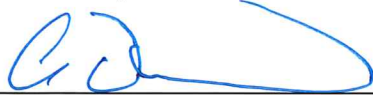
IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by  
Its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Executed by DRYSDALE BLVD KELOWNA APARTMENTS 2019 LTD by its Authorized signatories:



\_\_\_\_\_  
Name: Chad Davidson

\_\_\_\_\_  
Name:

Appendix "A": Plans and Specifications  
Appendix "B": Performance Criteria



## PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference March 25, 2019 affects:

### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 2 Section 33 Township 26 ODYD Plan EPP48909

("Land")

And is

**BETWEEN: DRYSDALE BLVD KELOWNA APARTMENTS 2019 LTD**  
500/1708 Dolphin Avenue, Kelowna BC

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons 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;
- (c) 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
- (d) a combination of (b) and (c), 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 Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**

- (a) 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) 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;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

### **1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing 175 Dwelling Units as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

**ARTICLE 4  
GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the

Land;

- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - 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 land,
- (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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling 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 Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their 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 advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

- 4.8 Joint Venture** – 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.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

**IN WITNESS WHEREOF** the parties hereunto have executed this Agreement on the date and year first above written.

**SIGNED, SEALED & DELIVERED** in the presence of:



Signature of Witness

Alisia Strautins

Print Name: Alisia Strautins

Address

Occupation

**"OWNER"**

by its authorized signatories:



Corey Makus

Print Name: Corey Makus

Print Name:

**SIGNED, SEALED & DELIVERED** in the presence of:



Signature of Witness

Pamela Munhofland

Print Name

1435 Water St. Kelowna, BC.

Address

Legislative Services Clerk

Occupation

**CITY OF KELOWNA**

by its authorized signatories:



Colin Basran, MAYOR Mayor



Karen Needham,  
Deputy City Clerk

City Clerk

BL10566, BL10674 & BL11457 amended SCHEDULE "B" and BL10974 & BL11854 replaced SCHEDULE "B":

**SCHEDULE "B"**  
**Revitalization Tax Exemption Agreement**

THIS AGREEMENT dated for reference the 12 day of August 2019 is

**BETWEEN:**

**WEST AVENUE – MISSION GROUP RENTALS LTD**  
1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5  
(the "Owner")

**AND:**

**CITY OF KELOWNA**  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4  
  
(the "City")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at [454-464 West Avenue] legally described as *LOTA, DISTRICT LOT 14, OSOYOOS DIVISION YALE DISTRICT, PLAN EPP92146, PID: 030-828-031* (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
  - a. Include a 6-storey purpose-built rental apartment building on West Avenue.
  - b. Include up to 48 purpose-built rental housing units, including studio, 1-bedroom, and 2-bedroom suites.

2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “**Tax Exemption Certificate**”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “**Tax Exemption**”) for the calendar year(s) set out in the Tax Exemption Certificate .
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - a. The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
  - b. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
  - c. The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to *100% of the Revitalization Amount on the Parcel as per section e)*:
  - e) For Purpose-Built Rental Housing Projects throughout the City, 100% of the Revitalization Amount on the Parcel where the project is subject to a Housing Agreement (for up to 10 years) and is in compliance with the OCP Future Land Use designation as at May 30, 2011. A tax incentive for rental housing will only be considered when the vacancy rate is at or below 3%;
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,
8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.

9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:
- a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
  - b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

10. **Termination of the agreement** - the revitalization tax exemption agreement will be valid for 48 months from the date the agreement is executed by Council. If the conditions for issuance of a Tax Exemption Certificate have not been met during this term, the owner may request a renewal term to this agreement, or the agreement will be terminated.
11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:
- a. on the written request of the Owner; or
  - b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
  - c. If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.
13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:
- a. in the case of a notice to the City, at:

THE CITY OF KELOWNA  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

Attention: Revenue Department  
Email: revenue@kelowna.ca

- b. in the case of a notice to the Owner, at:

*Luke Turri*  
1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5

Attention: Luke Turri  
Phone: 250-470-7617  
Email: lturri@missiongroup.ca

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Owner shall not assign its interest in this agreement except to a subsequent owner in fee simple of the Parcel.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
- a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or
  - c. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each 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.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

22. Any construction of a new improvement or alteration of an existing improvement as of this bylaw undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration
23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
  - a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
  - a. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.
24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

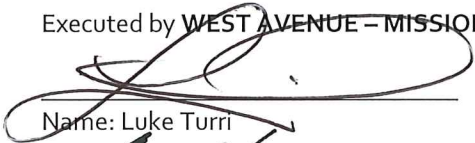
IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by  
Its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Executed by ~~WEST AVENUE – MISSION GROUP RENTALS LTD~~ by its Authorized signatories:

  
Name: Luke Turri

  
Name: Arpan Kandola

(witness)

Appendix "A": Plans and Specifications  
Appendix "B": Performance Criteria



RTE19-0001  
Appendix "B"

PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference August 20<sup>th</sup>, 2019 affects:

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

*LOT A, DISTRICT LOT 14, OSOYOOS DIVISION YALE DISTRICT, PLAN EPP92146*

("Land")

And is

**BETWEEN: WEST AVENUE – MSSION GROUP RENTALS LTD**

1000-1631 Dickson Avenue  
Kelowna, B.C.  
V1Y 0B5

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons 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;
- (c) 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
- (d) a combination of (b) and (c), 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 Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

## 1.2 Interpretation - In this Agreement:

- (a) 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) 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;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

## 1.3 Purpose of Agreement - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing 48 Dwelling Units as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

**ARTICLE 4  
GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;

- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - 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 land,
- (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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling 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 Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.


**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected

officials, officers, directors, employees and agents, and its and their 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 advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

- 4.8 Joint Venture** – 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.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 416 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )


  
\_\_\_\_\_  
Signature of Witness

ARPAN KANDOLA  
\_\_\_\_\_  
Print Name

1000-1631 DICKSON AVENUE, KELOWNA  
\_\_\_\_\_  
Address

DEVELOPMENT COORDINATOR  
\_\_\_\_\_  
Occupation

"OWNER"  
by its authorized signatories:

  
\_\_\_\_\_

LUKE TURRI  
\_\_\_\_\_  
Print Name:

WEST AVENUE - MISSION GROUP RENTALS LTD.

\_\_\_\_\_  
Print Name:

SIGNED, SEALED & DELIVERED in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

CITY OF KELOWNA  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

### Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the 11<sup>th</sup> day of November, 2019 is

**BETWEEN:**

**SIMPLE PURSUITS INC.**

340 West Avenue  
Kelowna, BC  
V1Y 4Z1

(the "Owner")

**AND:**

**CITY OF KELOWNA**

1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

(the "City")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at 2080 Benvoulin Court, Kelowna, BC legally described as PID: 027-080-153, Lot B District Lot 128 ODYD Plan KAP83889 (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements *[or alter existing improvements]* on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
  - (a) Provide 82 reasonably priced long term rental units; and
  - (b) Managed and run in a responsible way to create an overall benefit to the neighbourhood.
2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.

3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in the Tax Exemption Certificate .
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - (a) The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
  - (b) The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
  - (c) The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to:
  - (a) For Purpose-Built Rental Housing Projects within the Core Area, Glenmore Valley Village Centre and University South Village Centre as defined by the OCP, 100% of the Revitalization Amount on the parcel, for projects that are subject to a Housing Agreement (for a minimum of 10 years) and where the proposed project is in compliance with the OCP Future Land Use designation at the time of Revitalization Tax Exemption application.
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,
8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.
9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:
  - (a) the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
  - (b) for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

10. **Termination of the agreement** - the revitalization tax exemption agreement will be valid for 48 months from the date the agreement is executed by Council. If the conditions for issuance of a Tax Exemption Certificate have not been met during this term, the owner may request a renewal term to this agreement or the agreement will be terminated.

11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:

- (a) on the written request of the Owner; or
- (b) effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
- (c) If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by electronic means to such party:

- (a) in the case of a notice to the City, at:

THE CITY OF KELOWNA  
1435 Water Street  
Kelowna, BC  
V1Y 1J4

Attention: Revenue Branch  
Phone: 250-469-8757  
Email: revenue@kelowna.ca

- (b) in the case of a notice to the Owner, at:

SIMPLE PURSUITS INC.  
340 West Avenue  
Kelowna, BC  
V1Y 4Z1

Attention: Shane Worman  
Phone: 250-762-0040  
Email: Shane@Worman.ca

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Owner shall not assign its interest in this agreement except to a subsequent owner in fee simple of the Parcel.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
  - (a) Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - (b) Affect or limit any enactment relating to the use or subdivision of the Parcel; or
  - (c) Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each 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.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
22. Any construction of a new improvement or alteration of an existing improvement as of this bylaw undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration
23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
  - (a) the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
  - (b) the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.
24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by  
Its authorized signatories:

\_\_\_\_\_  
Mayor

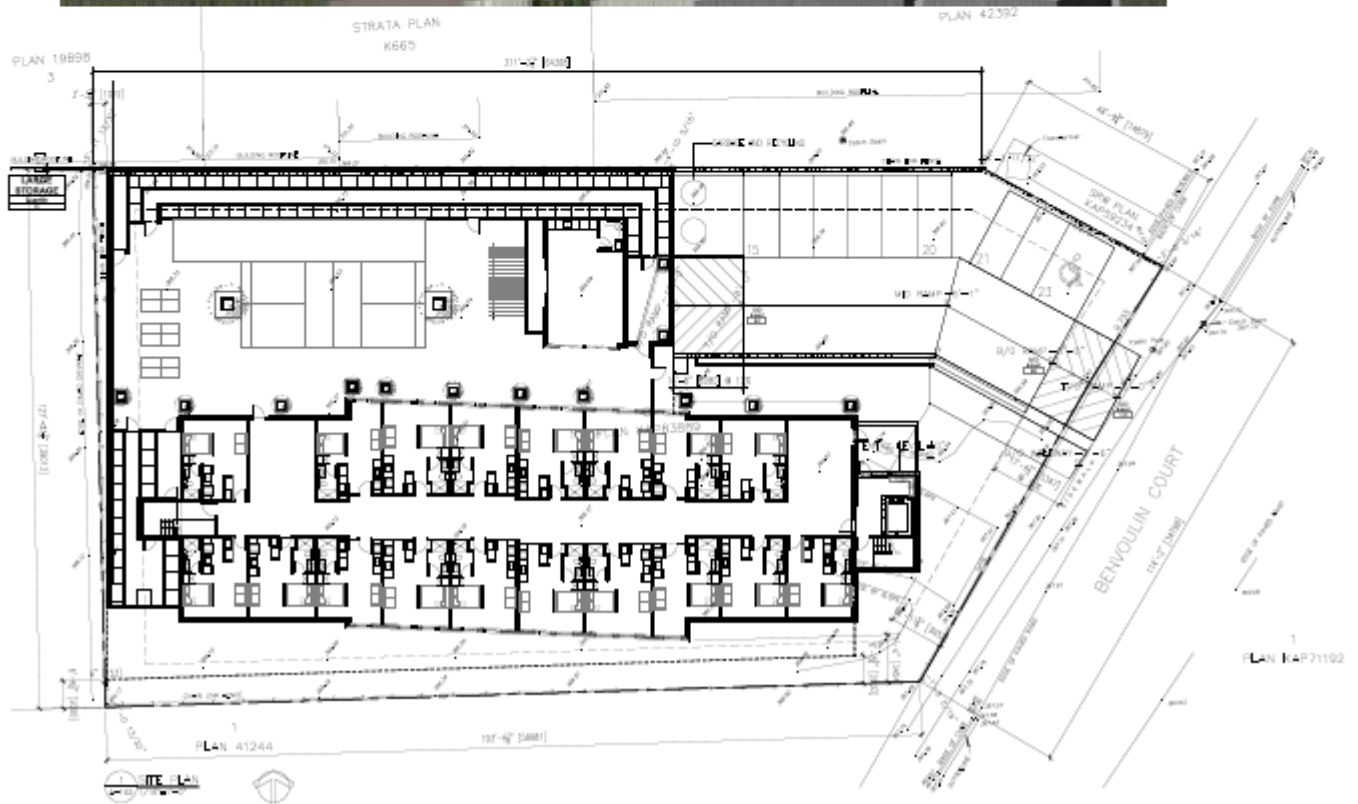
\_\_\_\_\_  
City Clerk

Executed by SIMPLE PURSUITS INC. by its Authorized signatory:

  
\_\_\_\_\_  
Shane Worman

Appendix "A": Plans and Specifications  
Appendix "B": Performance Criteria

2080 Benvoulin CT., Kelowna, BC



LAND TITLE ACT  
FORM C (Section 233) CHARGE

Jul-26-2019 15:53:59.001

CA7647931

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 6 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Christopher  
Paul Tonita  
MP85GS

Digitally signed by  
Christopher Paul Tonita  
MP85GS  
Date: 2019.07.26 15:51:10  
-07'00'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

PUSHOR MITCHELL LLP, Lawyers

Phone 250-762-2108 Client No. 10332  
RTS 30337.140

301 - 1665 Ellis Street

Kelowna

BC V1Y 2B3

Document Fees: \$74.16

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

027-080-153

LOT B DISTRICT LOT 128 ODYD PLAN KAP83889

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Covenant**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**SIMPLE PURSUITS INC. (INC. NO. BC1206854)**

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION**

SUITE 1701 - 4555 KINGSWAY

BURNABY

BRITISH COLUMBIA

V5H 4V8

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Curtis L. Darmohray

Barrister & Solicitor

and Notary Public

Pushor Mitchell LLP

301 - 1665 Ellis Street

Kelowna, BC Canada V1Y 2B3

Phone: 250-869-1125

Execution Date

Y	M	D
19	07	22

Transferor(s) Signature(s)

SIMPLE PURSUITS INC. by its  
authorized signatory:

Shane Worman

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT  
FORM D**

**EXECUTIONS CONTINUED**

PAGE 2 of 6 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Tiesha Marie Jordan

Y	M	D
19	07	26

BRITISH COLUMBIA HOUSING  
MANAGEMENT COMMISSION by its  
authorized signatories:

Commissioner for Taking Affidavits in British Columbia

BC Housing Management Commission  
203 - 4555 Kingsway  
Burnaby, BC V5H 4T8  
Tel: 604-646-7063  
Exp date: 04/30/2022

Wendy Acheson  
VP & Registrar

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**TERMS OF INSTRUMENT - PART 2**  
**SECTION 219 COVENANT**

BETWEEN:

**SIMPLE PURSUITS INC.**  
340 West Avenue  
Kelowna, BC V1Y 4Z1

(the "Owner")

AND:

**BRITISH COLUMBIA HOUSING MANAGEMENT  
COMMISSION**, a Crown Corporation having its offices at  
Suite 1701 - 4555 Kingsway, Burnaby BC V5H 4V8  
(the "BCHMC")

**WHEREAS:**

- A. The Owner is the registered owner of the property (the "Lands") situated, lying and being in the Municipality of Kelowna, in the Province of British Columbia, described in Item 2 of Form C to which this Terms of Instrument (the "Agreement") is attached;
- B. Section 219 of the *Land Title Act*, R.S.B.C. 1996, c.250, and amendments thereto (the "*Land Title Act*"), states that a covenant in favour of a Crown Corporation may be registered as a charge against the title to land and is enforceable against the covenantor and its successors in title even if the covenant is not annexed to land owned by the Crown Corporation;
- C. The Owner wishes to develop the Lands and construct on the Lands a multi-unit building (the "Development"), which is to be held for Rental Purposes and owned by the Owner;
- D. It is a condition of the BCHMC that the Owner, to be exempt from certain provisions of the *Homeowner Protection Act* (the "Act") and the Homeowner Protection Act Regulation (the "Regulations"), must register this covenant against the Lands and Development;
- E. The Owner has agreed to grant this Agreement which charges the Development and Lands;

**NOW THEREFORE**, pursuant to Section 219 of the *Land Title Act* and in consideration of One Dollar (\$1.00) now paid by the BCHMC to the Owner, the receipt and sufficiency of which is hereby acknowledged, and of the premises herein contained, the parties covenant and agree as follows:

- 1. In this Agreement, the terms and words used, the first letters of which are capitalized, have the meanings set out in the Act and Regulations, unless specifically defined in this Agreement.
- 2. The Owner, for itself and its successors and assigns, covenants and agrees with BCHMC, as a covenant running with the Lands, that the Owner will not:

- (a) sell or otherwise dispose of any Dwelling Unit in the Development to be constructed on the Lands for a period of 10 years from the date that the first Dwelling Unit in the Development constructed on the Lands is first occupied, except together with all Dwelling Units in the Development constructed on the Lands;
  - (b) during the 10-year period set out in paragraph 2(a), use the Dwelling Units and Common Property in the Development constructed on the Lands, or allow them to be used, except for Rental Purposes.
- 3. Nothing contained in or implied by this Agreement shall prejudice or affect the rights and powers of the BCHMC in the exercise of its functions under the Act, the Regulations, or any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands and Development as if this Agreement had not been executed and delivered by the Owner.
- 4. The Owner hereby agrees to indemnify and save harmless the BCHMC, and its appointed directors, officials, officers, employees, and agents from and against any loss, damage, debts, claims, liabilities, obligations, costs (including solicitor and own client costs incurred by the BCHMC in the enforcement of the Owner's obligations under this Agreement) or causes of action which the BCHMC and its appointed directors, officials, officers, employees and agents, or any of them, may suffer, incur, or be put arising whether directly or indirectly, out of a breach of any covenant or condition of this Agreement by the Owner or its directors, officers, employees, or agents, or any other person for whom it is legally responsible.
- 5. The Owner agrees to cause the registrable interest in the Lands expressly agreed to be granted pursuant to this Agreement to be registered in the Land Title Office as a first registered charge against the Lands, save only for:
  - (a) any reservations, liens, charges or encumbrances contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
  - (b) any non-financial easements and restrictive covenants in favour of third parties over which, in the sole opinion of the Registrar of the BCHMC, priority for this Agreement is not required.
- 6. If the Land Title Office rejects the registration of this Agreement, then the parties will re-execute and the Owner will re-register the same in a form and style acceptable to the Land Title Office.
- 7. The Owner represents and warrants to and covenants and agrees with the BCHMC that:
  - (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands and Development with the interest in land created hereby;

- (b) upon execution and delivery of this Agreement and registration therefor, the interest in land created hereby will encumber all legal and beneficial interests in the title to the Lands and Development;
  - (c) this Agreement will be fully and completely binding on the Owner in accordance with the terms hereto and the Owner will perform all of its obligations under this Agreement in accordance with the terms hereof; and
  - (d) the foregoing representations, warranties, covenants and agreements will have force and effect notwithstanding any knowledge on the part of the BCHMC, whether actual or constructive, concerning the status of the Owner, the Development or the Lands, or any other matter.
8. In any action or proceeding concerning this Agreement, including any application seeking the specific performance of the Owner's obligations under this Agreement, the BCHMC will be entitled to be indemnified for its costs on a solicitor-and-own-client basis.
  9. The Owner agrees that damages are not an adequate remedy for the BCHMC for any breach by the Owner of its obligations under this Agreement and that the BCHMC is entitled to an order for specific performance or a prohibitory or mandatory injunction to compel performance of the Owner's obligations.
  10. The parties to this Agreement will do the things and execute the documents as may reasonably be necessary to perfect the intention of the Agreement as prescribed by the Act and Regulations.
  11. All obligations and covenants in this Agreement are severable, so that if any are held or declared by a court of competent jurisdiction to be void or unenforceable, the balance of the obligations and covenants will remain and be binding.
  12. No alleged waiver of any breach of this Agreement is effective unless it is an express and specific waiver in writing, which will not operate as a waiver of any other breach of this Agreement.
  13. The covenants set forth in this Agreement shall charge the Lands pursuant to Section 219 of the *Land Title Act* and shall be covenants, the burden of which shall run with the Lands. It is further expressly agreed that the benefit of all covenants made by the Owner herein shall accrue solely to the BCHMC and that this Agreement may only be modified or discharged by agreement of the BCHMC, pursuant to the provisions of Section 219(9) of the *Land Title Act*. If requested by the Owner following the expiration of the 10-year period set out in Section 2, or if the Owner submits to the BCHMC evidence of home warranty coverage as required under the Act, such evidence to be in a form acceptable to the BCHMC, the BCHMC will execute and deliver a registrable release of the covenants set forth in this Agreement but the owner shall bear the preparation and registration costs.
  14. Notwithstanding anything in this Agreement, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises after the Owner ceases to have any further interest in the Lands.

15. Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context of the parties so requires.

16. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties have executed this Agreement on Form C, to which this Agreement is attached and which forms a part of this Agreement, effective as of the date first above written.

RTS 30337.140 lxs

BL10566, BL10674, BL11457, BL10974, BL11854 & BL11912 amended SCHEDULE "B":

**SCHEDULE "B"**  
**Revitalization Tax Exemption Agreement**

THIS AGREEMENT dated for reference the 18<sup>th</sup> day of November, 2019 is

**BETWEEN:**

Whitworth Holdings Ltd.  
102- 1054 Ellis Street,  
Kelowna, British Columbia, V1Y 1Z1  
(the "Owner")

**AND:**

**CITY OF KELOWNA**  
1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4  
  
(the "City")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at 4119 Lakeshore Road legally described as Lot 3 Section 6 Township 26 ODYD Plan 4912 (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
  - a. Deliver ground-oriented long term purpose built rental accommodations that will not be utilized for short term rentals or other vacation type rental accommodations.
  - b. Not be stratified at any time during the initial ten (10) years of this agreement.
  - c. Deliver 26 residential rental dwelling units operated in a first class manner.

2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in the Tax Exemption Certificate .
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
  - a. The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
  - b. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
  - c. The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to :
  - a) For Purpose-Built Rental Housing Projects within the Core Area, Glenmore Valley Village Centre and University South Village Centre as defined by the OCP, 100% of the Revitalization Amount on the parcel, for projects that are subject to a Housing Agreement (for a minimum of 10 years) and where the proposed project is in compliance with the OCP Future Land Use designation at the time of Revitalization Tax Exemption application.
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,
8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.

9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:

- a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
- b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

10. **Termination of the agreement** - the revitalization tax exemption agreement will be valid for 48 months from the date the agreement is executed by Council. If the conditions for issuance of a Tax Exemption Certificate have not been met during this term, the owner may request a renewal term to this agreement or the agreement will be terminated.

11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:

- a. on the written request of the Owner; or
- b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
- c. If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.

13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:

- a. in the case of a notice to the City, at:

THE CITY OF KELOWNA

1435 Water Street,  
Kelowna, B.C.  
V1Y 1J4

Attention: Revenue Department  
Phone: 250 469 8757 Email: revenue@kelowna.ca

b. in the case of a notice to the Owner, at:

1054 Ellis Street, unit 103  
Kelowna, British Columbia, V1Y 1Z1

Attention: C. Costley  
Phone: 250-258-0942  
Email: Cam@Whitworthholdings.com

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Owner shall not assign its interest in this agreement except to a subsequent owner in fee simple of the Parcel.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
  - a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
  - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or
  - c. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each 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.
21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
22. Any construction of a new improvement or alteration of an existing improvement as of this bylaw undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration

23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
- a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
  - a. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.
24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by  
Its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Executed by its Authorized signatories:

  
\_\_\_\_\_  
Signature

Robert Kehler, Board of Director  
Whitworth Holdings Ltd.

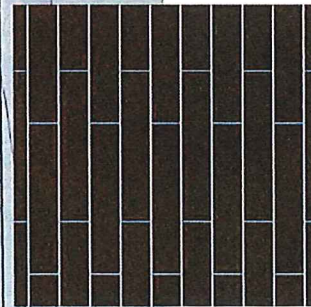
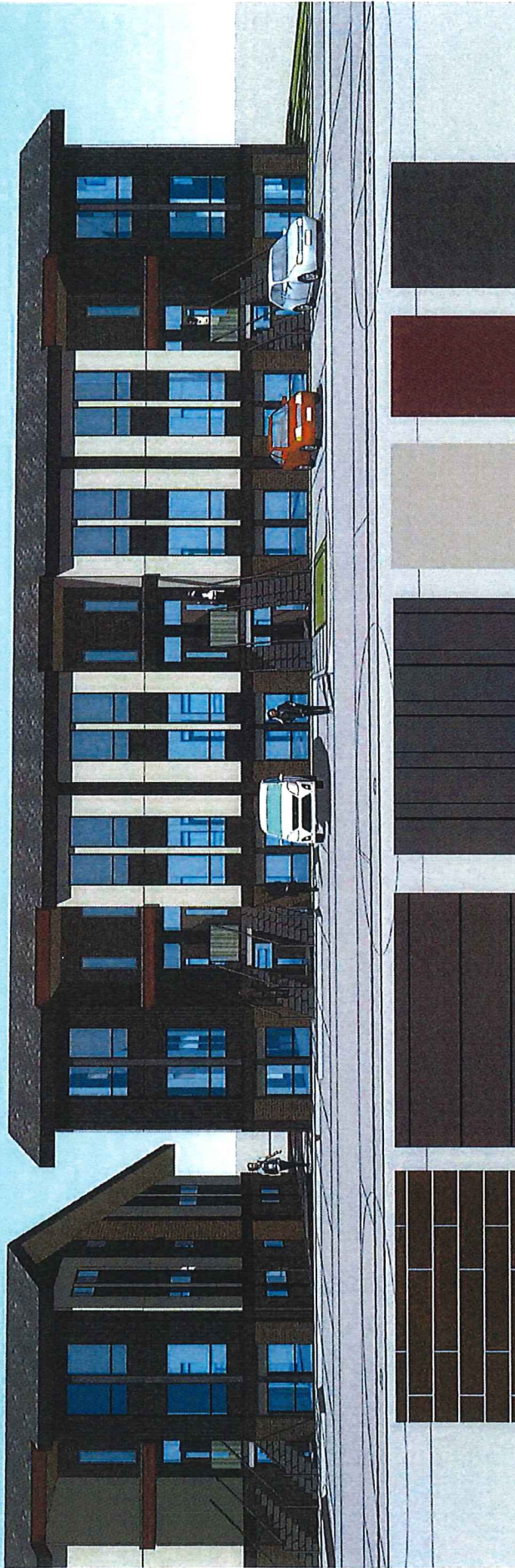
Appendix "A": Plans and Specifications  
Appendix "B": Performance Criteria

**SCHEDULE B**

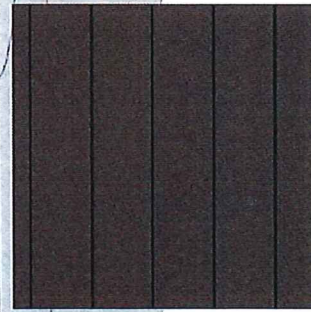
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# DP19-0037, DVP19-0089

City of Kelowna  
DEVELOPMENT PLANNING

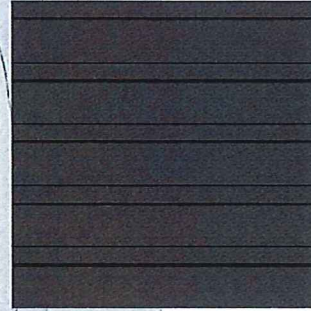
Planner Initials **AJ**



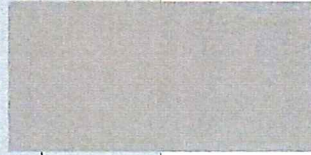
dark brown - running bond



hardie - horizontal espresso



hardie - vertical iron grey



hardi panel grey



hardi red canopy



dark grey hardi panel

## PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference November 18, 2019 affects:

### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 3 Section 6 Township 26 ODYD Plan 4912

("Land")

And is

**BETWEEN: Whitworth Holdings Ltd.**

with offices at 103, 1054 Ellis Street, Kelowna, British Columbia, V1Y 1Z1

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons 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;
- (c) 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
- (d) a combination of (b) and (c), 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 Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**

- (a) 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) 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;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.1 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land will be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain one or more buildings providing 26 Dwelling Units as Purpose-Built Rental Housing
- (c) The Owner acknowledges that the City will not support applications to stratify the building(s) on the Land, thereby allowing the identified Purpose-Built Rental Housing Dwelling Units to be sold independently of each other, for a period of ten (10) years from the date of this Agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.1 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Housing Dwelling Units on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the Purpose-Built Rental Housing Dwelling Units are available in accordance with this Agreement.

**3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit** - The Owner agrees with the City as follows:

- (a) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use the Purpose-Built Rental Housing Dwelling Unit for short-term vacation accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

**ARTICLE 4  
GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the

Land;

- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land;
- (d) in the event the parties agree to release this Agreement from the title of the Land, which may not occur before the tenth (10<sup>th</sup>) anniversary of the date of this Agreement, the Owner will repay the City for 100% of the amount of the rental grant received from the City. Such repaid funds will be directed to the City's Housing Opportunities Reserve Fund.

**4.2 No Effect On Laws or Powers** - 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 land,
- (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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

**4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling 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 Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.

**4.4 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it will promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

**4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

**4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.

**4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their 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 advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.

- 4.8 Joint Venture** – 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.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

  
\_\_\_\_\_  
Signature of Witness )

Cameron J. Costley )  
\_\_\_\_\_  
Print Name )

#103 - 1054 Ellis Street )  
\_\_\_\_\_  
Address Kelowna BC V1Y 1Z1 )

\_\_\_\_\_  
Occupation )

"OWNER"

by its authorized signatories:

  
\_\_\_\_\_

KATE STEWART  
\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

SIGNED, SEALED & DELIVERED in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

CITY OF KELOWNA

by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11961

### Delegation of Authority to Enter into Agreements

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WHEREAS Section 154(1) of the *Community Charter*, as amended from time to time, empowers the City to, by bylaw, delegate powers, duties and functions, including those specifically established by an enactment, to officers and employees of the City;

AND WHEREAS Council wishes to delegate to its officers and employees' certain powers, duties and functions;

AND WHEREAS Council wishes to specify which officers and employees may act as signatories on behalf of the City as it relates to agreement transactions;

NOW THEREFORE, the Council of the City of Kelowna, in open meeting lawfully assembled, enacts as follows:

#### SECTION 1 - INTRODUCTION

1.1 This bylaw may be cited for all purposes as the "Delegation of Authority to Enter into Agreements Bylaw No. 11961";

#### 1.2 Definitions

1.2.1 In this Bylaw:

"**Agreement**" means a negotiated and typically legally binding arrangement between two or more parties as to a course of action;

"**Airport**" means the airport operated by the City of Kelowna known as Kelowna International Airport;

"**Airport Director**" means the person hired in this position by the City Manager;

"**City**" means The Corporation of the City of Kelowna or the area within the Municipal boundaries thereof; and

"**Council**" means the Municipal Council for the City of Kelowna;

#### SECTION 2 - Authorized Signatories for Airport Agreements

2.1 Provided that all necessary prerequisites of the *Community Charter* the *Local Government Act*, other applicable federal and provincial enactments, City bylaws, and City policies have been met, the Airport Director is assigned the authority within the parameters established by Section 2 to negotiate, approve, execute and amend Agreements related to the Airport Improvement Fee, airlines operating at the Airport, ground handlers operating at the Airport, NAV Canada, revenues including but not limited to parking, car rental, food and beverage, and advertising, on behalf of the City;

2.2 The maximum term of an agreement shall be twenty years inclusive of any rights of renewal;

- 2.3 The Airport Director shall provide a report to Council to be received for information regarding any transactions approved pursuant to this Bylaw on an annual basis;

### **SECTION 3 - SEVERABILITY**

- 3.1 In the event that any section of this bylaw is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or sub-section shall be severed from and not affect the remaining provisions of this bylaw;

### **SECTION 4 – EFFECTIVE DATE**

- 4.1 This bylaw comes into full force and effect and is binding on all persons as from the date of adoption.

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of November, 2019.

Adopted by the Municipal Council of the City of Kelowna this

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk