### City of Kelowna Regular Council Meeting AGENDA



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Monday, August 8, 2016 1:30 pm Council Chamber City Hall, 1435 Water Street

#### 1. Call to Order

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

PM Meeting - July 25, 2016

#### 3. Public in Attendance

3.1	Bumbershoot Theatre		

Annual presentation to Council from Tracy Ross, Artistic Director.

#### 3.2 Ministry of Transportation & Infrastructure - Second Crossing Project/Central 34 - 47 Okanagan Planning Study

Presentation to Council from Murray Tekano, Senior Project Director, and Ross Coates, Project Manager.

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

#### 4.1 Agri-tourist Accommodation (A1t), TA16-0006 - City of Kelowna 48 - 57

To amend Zoning Bylaw No. 8000 by prohibiting the use of Agri-tourist Accommodation within the A1 - Agriculture 1 Zone, from the date of adoption of the Text Amendment, with the exception of existing conforming operations and those applications currently in process.

### 4.2 BL11265 (TA16-0006) - Amendments to the A1t - Agriculture 1 with Agri-Tourist 58 - 60 Accommodation

To give Bylaw No. 11265 first reading in order to amend Zoning Bylaw No. 8000 to prohibit the use of Agri-tourist Accommodation within the A1 - Agriculture 1 Zone.

	4.3	Upper Mission Drive (E of), OCP16-0011 & Z16-0041 - Calcan Joint Venture	
		To amend the Official Community Plan Future Land Use Designation and to rezone portions of the subject properties in order to accommodate the development of a single family subdivision.	
	4.4	Upper Mission Drive (E of), BL11266 (OCP16-0011) - Calcan Investments Inc.	74 - 75
		<b>Requires a majority of all members of Council (5).</b> To give Bylaw No. 11266 first reading in order to change the future land use designations of portions of the subject properties in order to accommodate the development of a single family subdivision.	
	4.5	Upper Mission Drive (E of), BL11267 (Z16-0041) - Calcan Investments Ltd.	76 - 77
		To give Bylaw No. 11267 first reading in order to rezone portions of the subject properties to accommodate the development of a single family subdivision.	
5.	Bylaws	s for Adoption (Development Related)	
	5.1	285 Sadler Road, BL11132 (Z15-0032) - Thorsten Tropf	78 - 78
		To adopt Bylaw No. 11132 in order to rezone the subject property to faciltate the development of a second dwelling.	
	5.2	2970 Shayler Court, BL11219 (Z15-0056) - Bruce & Helga Morris	79 - 79
		To adopt Bylaw No. 11219 in order to rezone the subject property to faciltate a carriage house.	
6.	Non-D	evelopment Reports & Related Bylaws	
	6.1	Quarterly report update - Q2 2016	80 - 100
		To provide Council with an update of the City's activities for the second quarter of 2016.	
	6.2	Tourism Kelowna - Municipal & Regional District Tax Increase and Service Agreements	101 - 142
		To update and inform Council regarding the relationship between the City of Kelowna and Tourism Kelowna, the benefits of preparing Service Agreements, and a request from Tourism Kelowna to initiate the process to increase the accommodation tax rate from two per cent to three per cent.	
	6.3	BL11258 - City of Kelowna Municipal and Regional District Tax Bylaw	143 - 143
		To give Bylaw No. 11258 first, second and third readings in order to increase the accommodation tax rate from 2% to 3%.	

6.4	678 Richter Street, RTE16-0002 - Revitalization Tax Exemption Agreement, The Society of Housing Opportunities and Progressive Employment	144 - 195
	To enter into a 10 year Revitalization Tax Exemption Agreement with The Society of Housing Opportunities and Progressive Employment in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.	
6.5	2065 Benvoulin Court, RTE16-0003 - Revitalization Tax Exemption Agreement, National Society of Hope	196 - 228
	To enter into a 10 year Revitalization Tax Exemption Agreement with National Society of Hope in accordance with Revitalization Tax Exemption Program Bylaw No. 9561	
6.6	460 Doyle Avenue, RTE15-0002 - Revitalization Tax Exemption Agreement Amendment, Kelowna Sustainable Innovation Group Ltd.	229 - 239
	The applicant is applying to amend the RTE15-0002 which was approved by Council at the May 25, 2015 Council Meeting. The applicant would like to change the term of the agreement from 2017 -2026 to 2018 - 2027.	
6.7	805 Academy Way, RTE16-0001 - Revitalization Tax Exemption Agreement, Mission Group Holdings Ltd.	240 - 264
	To enter into a 10 year Revitalization Tax Exemption Agreement with U-Three - Mission Group Rentals Ltd. In accordance with Revitalization Tax Exemption Program Bylaw No. 9561.	
6.8	305 Homer Road, RTE15-0003 - Revitalization Tax Exemption Agreement, Davara Holdings Ltd.	265 - 289
	To enter into a 10 year Revitalization Tax Exemption Agreement with Davara Holding Ltd in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.	
6.9	Kneller Road (Portion of) adjacent to 1170 Hwy 33 West - Road Closure	290 - 293
	To close a portion of Kneller Road for consolidation with the adjacent property.	
6.10	Kneller Road (Portion of) adjacent to 1170 Hwy 33 West - Road Closure and Removal of Highway Dedication Bylaw	294 - 295
	To give Bylaw No. 11259 first, second and third readings in order to authorize the City to permanently close and remove the highway dedication of a portion of highway on Hwy 33 W.	
6.11	825 Walrod Street (Former Walrod School) - Lease to the Justice Institute of British Columbia	296 - 335
	To obtain Council support to enter into a lease with the Justice Institute of British Columbia for a three (3) year term.	

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

#### 7.1 BL11250, Delegation of Authority to Enter into Leases and Licences of Occupation Bylaw

To adopt Bylaw No. 11250 in order to delegate to the City's officers and employees certain powers, duties and functions with respect to lease and licence of occupation transactions.

#### 8. Mayor and Councillor Items

#### 9. Termination

336 - 338



#### City of Kelowna

#### **Regular Council Meeting**

#### Minutes

Date: Location: Monday, July 25, 2016 Council Chamber City Hall, 1435 Water Street

Councillor Ryan Donn

Council Members Present: Mayor Colin Basran and Councillors Maxine DeHart, Gail Given, Tracy Gray, Charlie Hodge, Brad Sieben, Mohini Singh and Luke Stack

Council Members Absent:

Staff Present:

City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Divisional Director, Community Planning & Real Estate, Doug Gilchrist\*; Real Estate Director, Derek Edstrom\*; Community Planning Department Manager, Ryan Smith\*; Planner Specialist, Ross Soward\*; Property Management Manager, Mike Olson\*; Planner, Adam Cseke\*; Regional Planning Manager, Rafael Villarreal\*; Senior Airport Finance & Corporate Services Manager, Shayne Dyrdal\*; Community Policing Coordinator, Colleen Cornock\*; and Legislative Systems Coordinator, Sandi Horning

(\* denotes partial attendance)

#### 1. Call to Order

Mayor Basran called the meeting to order at 1:35 p.m.

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.

#### Moved By Councillor Hodge/Seconded By Councillor Gray

<u>**R558/16/07/25</u>** THAT the Minutes of the PM Meeting of July 11, 2016 be confirmed as circulated.</u>

#### **Carried**

3. Public in Attendance

#### 3.1 Imagine Kelowna Speaker Series (Guest #1 Dr. Keith Culver)

Mayor Basran advised that this item will be deferred to later in the meeting.

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

#### 4.1 1975 Kane Road, Z16-0026 - Terrance & Joan Raisanen

Staff:

- Displayed a PowerPoint presentation summarizing the application before Council and responded to questions from Council.
- Advised that 48% of the parking will be underground with 52% being surface parking.

#### Moved By Councillor Stack/Seconded By Councillor Singh

**R559/16/07/25** THAT Rezoning Application No. Z16-0026 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B, Section 33, Township 26, ODYD, Plan 22004, located on 1975 Kane Rd, Kelowna, BC from the A1 - Agriculture zone to the RM5 - Medium Density Multiple Housing zone, be considered by Council;

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

AND THAT final adoption of the Zone Amending Bylaw be subsequent to the following:

1. To the outstanding conditions identified in Attachment "A" associated with the report from the Community Planning Department dated June 20<sup>th</sup> 2016.

#### Carried

#### 4.2 1975 Kane Road, BL11261 (Z16-0026) - Terrance & Joan Raisanen

#### Moved By Councillor Given/Seconded By Councillor Hodge

<u>R560/16/07/25</u> THAT Bylaw No. 11261 be read a first time.

#### **Carried**

#### 3. Public in Attendance

#### 3.1 Imagine Kelowna Speaker Series (Guest #1 Dr. Keith Culver)

#### Staff:

- Introduced the presentation and guest speaker, Dr. Keith Culver.

Dr. Keith Culver, Professor of Management, UBC:

- Displayed a PowerPoint presentation entitled "Making the Most of Uncertainty" and responded to questions from Council.

#### Staff:

- Provided an overview of how the speaker's series will be reported back to Council, including the public engagement process that will be initiated.

#### 4.3 1555, 1547 & 1543 Bedford Avenue, **Z16**-0019 - Al Stober Construction Ltd.

Staff:

- Displayed a PowerPoint presentation summarizing the application before Council and responded to questions from Council.

#### Moved By Councillor Stack/Seconded By Councillor Given

**R561/16/07/25** THAT Rezoning Application No. Z16-0019 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lots 9-11, District Lot 141, ODYD, Plan KAP10012, located on 1555, 1547, & 1543 Bedford Ave Kelowna, BC from the RU1 - Large Lot Housing zone to the RM5 - Medium Density Multiple Housing zone, be considered by Council;

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

AND THAT final adoption of the Zone Amending Bylaw be subsequent to the following:

- 1. To the outstanding conditions identified in Attachment "A" associated with the report from the Community Planning Department dated July 5<sup>th</sup> 2016;
- 2. To the applicant completing the area wide Traffic Study to the satisfaction of the City's Development Engineering Department.

#### Carried

4.4 1555, 1547 & 1543 Bedford Avenue, BL11262 (Z16-0019) - Al Stober Construction Ltd.

#### Moved By Councillor Hodge/Seconded By Councillor Gray

**R562/16/07/25** THAT Bylaw No. 11262 be read a first time.

#### **Carried**

#### 4.5 3697 Lakeshore Road, Z15-0066 - Pam Irene Sahlin

Staff:

Displayed a PowerPoint presentation summarizing the application before Council.

#### Moved By Councillor Hodge/Seconded By Councillor Sieben

<u>**R563/16/07/25</u>** THAT Council waives the requirements of Item 4 (Road Reserve) on Schedule "A" attached to the Report of the Community Planning Department dated July 25, 2016 that pertain to a 5.0m road reserve on Lakeshore Road and a 3.0m road reserve on Barrera Road;</u>

AND THAT Council maintain the requirement of Item 4 (Road Dedication) on Schedule "A" attached to the Report of the Community Planning Department dated July 25, 2016 that pertains to a 5.0m road dedication on Lakeshore Road to be considered in conjunction with Final Adoption of Rezoning Bylaw No. 11201;

AND FURTHER THAT Rezoning Bylaw No. 11201 be forwarded for adoption consideration.

**Carried** 

#### 4.6 3697 Lakeshore Road, BL11201 (Z15-0066) - Pam Irene Sahlin

Moved By Councillor Given/Seconded By Councillor Hodge

R565/16/07/25 THAT Bylaw No. 11201 be adopted.

**Carried** 

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

5.1 464 Morrison Avenue, BL11202 (Z15-0058) - Flying Eagle Holdings & Birkett Holdings

#### Moved By Councillor Sieben/Seconded By Councillor Singh

**R566/16/07/25** THAT Bylaw No. 11202 be adopted.

Carried

- 6. Non-Development Reports & Related Bylaws
  - 6.1 E & D Aircraft Services Ltd. doing business as Okanagan Aero Engine renewal of Lease at Kelowna International Airport

#### Staff:

- Provided an overview of the tenant and Lease renewal terms.

#### Moved By Councillor Given/Seconded By Councillor Gray

**R566/16/07/25** THAT Council approves the City entering into a 15-year Lease Agreement with E & D Aircraft Services Ltd. doing business as Okanagan Aero Engine for lands at Kelowna International Airport, with the option to renew for an additional 1-year term, in the form attached to the Report of the Airport Director dated July 25, 2016;

AND THAT the Mayor and City Clerk be authorized to execute the Lease Agreement.

Carried

#### 6.2 Don't Be An Easy Target - Anti-Theft Campaign

Staff:

- Provided an overview of the "Don't be an Easy Target" campaign and distributed a handout to Council regarding the initiative,
- Responded to questions from Council.

#### Moved By Councillor DeHart/Seconded By Councillor Gray

**R567/16/07/25** THAT Council receives, for information, the report from Community Policing Coordinator dated July 25, 2015 with respect to crime prevention strategies aimed at reducing theft from motor vehicles within the city of Kelowna.

Carried

#### 6.3 Revitalization Tax Exemption Program Update

Staff:

- Displayed a PowerPoint presentation summarizing the Revitalization Tax Exemption Program update and responded to questions from Council.

Divisional Director, Community Planning & Real Estate:

- Responded to questions from Council regarding Development Cost Charges.
- Provided comment regarding urban centre Development Cost Charges and rural Development Cost Charges.
- Provided comment regarding the different tools available to the City to encourage growth and development in certain areas.

#### Moved By Councillor Sieben/Seconded By Councillor Given

**R568/16/07/25** THAT Council receives, for information, the report from the Planner Specialist, dated July 25, 2016, regarding the status of the Revitalization Tax Exemption Bylaw and purpose-built rental housing tax incentive programs;

AND THAT Council directs staff to move forward with the amendments to the Revitalization Tax Exemption Program Bylaw with respect to Tax Incentive Area 3, as described in the report from the Planner Specialist, dated July 25, 2016.

#### <u>Carried</u>

#### 6.4 Delegation of Authority - Leases and Licences of Occupation

Staff:

- Displayed a PowerPoint presentation summarizing the proposed delegation of authority for Leases and Licences of Occupation and responded to questions from Council,

#### Moved By Councillor Sieben/Seconded By Councillor Stack

**R568/16/07/25** THAT Council receives, for information, the Report from the Director, Real Estate dated July 25, 2016, pertaining to implementing a new bylaw for delegation of authority for entering into Leases and Licences of Occupation;

AND THAT Bylaw No. 11250 being, Delegation of Authority to Enter into Leases and Licences of Occupation Bylaw, be forwarded for reading consideration;

AND FURTHER THAT Council Policy No. 81, Processing of City Lease or Contract Documents be rescinded.

#### Carried

6.5 BL11250, Delegation of Authority to Enter into Leases and Licences of Occupation Bylaw

Moved By Councillor Stack/Seconded By Councillor DeHart

R570/16/07/25 THAT Bylaw No. 11250 be read a first, second and third time.

#### **Carried**

#### 6.6 Lebanon Creek Greenway Maintenance Agreement

Staff:

- Displayed a PowerPoint presentation summarizing the Lebanon Creek Greenway Maintenance Agreement with the Regional District of Central Okanagan and responded to questions from Council.

#### Moved By Councillor Given/Seconded By Councillor Hodge

<u>**R571/16/07/25</u>** THAT Council approves the City entering into a five (5) year Maintenance Agreement, with the Regional District of Central Okanagan, for construction and maintenance of Lebanon Creek Greenway, in the form attached to the Report of the Manager, Property Management, dated July 25, 2016;</u>

AND THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete the transaction

Carried

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

7.1 BL11207 - Amendment No. 2 to Development Cost Charge Bylaw No. 10515

#### Moved By Councillor DeHart/Seconded By Councillor Stack

<u>**R572/16/07/25</u>** THAT Bylaw No. 11207 be adopted.</u>

Carried

#### 8. Mayor and Councillor Items

Councillor Stack:

- Made comment regarding the successful launch of the City's "Knox your Socks Off" initiative.

Councillor DeHart:

- Made comment regarding the success of the Downtown Kelowna Block Party that was held this past Saturday and noted that several businesses that are traditionally closed on Saturdays participated.

Councillor Singh:

- Made comment regarding the success of the Downtown Kelowna Block Party and the "Imagine Kelowna" tent that was part of the event.

Councillor Sieben:

- Gave a 'shout out' to family members who put on a successful charity bocce tournament over the weekend that raised money in support of cancer research.

Councillor Gray:

- Made comment regarding the engagement in the downtown during the Downtown Kelowna Block Party.

Mayor Basran:

- Made comment regarding the success of the One Bag Challenge for the local Food Bank and how the challenge has spread to other communities through social media.

#### 9. Termination

This meeting was declared terminated at 3:50 p.m.

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Mayor		City Clerk
/slh		



#### Mission

Bumbershoot Children's Theatre is dedicated to introducing youth and children to the incomparable magic of theatre. Our aim is to stimulate, and liberate the imagination, the intellect and the spirit through creative theatre experiences and promote theatre as an integral part of the learning process.

#### Values

- We believe that theatre can transform, illuminate and heal
- Arts/Theatre education is a critical component and a way for children to thrive
- We believe in encouraging the possibility of mystery and magic in our lives
- We value curiosity
- Accessibility
- A working environment of collaboration, creativity and self-expression
- Volunteerism
- Excellence in all that we do wherein we create a sense of anticipation and memories

#### Who is Bumbershoot Children's Theatre?

Bumbershoot Children's Theatre Inc. is a non-profit charitable organization launching its Eighth Season, 2016, January to December. Bumbershoot continues to operate under founding Artistic Director Tracy Ross, and is governed by a board of directors, which include 4 youth representatives. Bumbershoot operates out of its own location in the heart of Kelowna's Cultural District at #125-1295 Cannery Lane. (recently expanded as of Dec 2014)

Historically, BCT has offered a Family Main stage, producing 6-8 shows per year of adults (and some experienced young performers) that act for children and their families. The Main Stage program as grown over the years, the first year we produced 4 shows. Within these shows we offer productions that are geared towards all ages, as well as a small series that is designed to engage the increasing intellect and appetite of our developing audiences- 8+ yrs. This coming Season we are giving more specific age recommendations on our shows, as well as increasing flexibility in our subscriptions- to allow our audiences to best design theatre experiences for their families.

In addition to our Family Mainstage we offer an Advanced Youth Development program called (C.A.S.T.- collaborative arts for stage and theatre), designed for young people between the ages of 13-24. Spring 2015 was the first session of this new program (having been adapted from our Young Performers program). The first performance was completed September 2015 with the C.A.S.T. kids delivering a performance of 'I met a Bully on the Hill' with other selected scenes and songs that complimented the main production. We are just heading into session 2 for this program- October 2015. We also offer a variety of community classes for all ages.

Our commitment to the schools will remain strong and we will continue to work with them in the following ways:

- 1. After-school programs
- 2. School residency programs
- 3. Touring Shows
- 4. Professional Development
- 5. School matinee's

BCT maintains strong relationships with other professional community organizations: we have partnered with the Okanagan Symphony Orchestra as well as Opera Kelowna, Kelowna Museums, UBCO, and the Kelowna Art Gallery. For the past 2 summers we have produced an original production in partnership with Festivals Kelowna. The most recent production called, 'The Flower Ball" was written by local musician, Neville Bowman and Artistic Director Tracy Ross. The production was performed 4 times throughout the summer, animating public spaces and offering FREE accessible family theatre.

BCT continues to develop looking for increased support in order to allow us to be a strong advocate for the arts, families and young people in our community and surrounding area. Some of the steps we work at consistently:

- Board development
- Re-design of our website and increased interactive capabilities through web
- Focused approach for our community programming with the specific outcomes relating to cultivation and innovation
- Working to expand infrastructure to support all of the programming: hiring skilled professionals to develop our marketing and communications and more

BCT has created and produced 10 original productions including script and music. These productions have included thousands of young people and have been performed for family audiences well over 10,000 and counting.

#### How are the programs delivered?

Our society runs many programs. As such, we have a full-time Artistic Director who oversees all administration and management of the society as well as determines artistic content and programming. BCT is governed by an elected Board of Directors who provides oversight for the societies activities.

The staff work under the direction of the Artistic Director. BCT currently has 1 part-time administrator and 6 educators (contracts). Volunteers also play an integral part of our organization. Key volunteer areas for Bumbershoot range from website and poster design, to on-stage talent, front of house and marketing. We couldn't do it without them. Ideally as we grow we would like to be able to have more secured in house support.

#### FAMILY MAINSTAGE

The Family Mainstage is all performed at our intimate space located on Cannery Lane in the heart of Kelowna's Cultural District. Season 8 will include the following productions:

January	'Balloonacy'	by Barry Kornhauser
February	C.A.S.T.	Youth Development Program- Show TBD

March	'The Flower Ball'	by Tracy Ross and Neville Bowman
April	'The Railway Children	n' by Mike Kenny
May	'Junie B. Jones'	by Marcy Heisler, Music by Zina Goldrich
July-August	t Summer Parks Partnership with Parks Alive	
September	C.A.S.T.	Youth Develoment Program- Show TBD
October	'James and the Giant	Peach' by Timonthy Allen McDonald Music Pasek& Paul
November	2BWUT UR	by Morris Panych

The cast size for these productions vary from 2-21, and will also involve designers and production crew in set, costume, props, lighting, backstage, sound, and of course the director.

The majority of the actors for the Mainstage are volunteer, however we have compensated our performers in the past for various projects, and are seeking support in order to hire more emerging and professional artists, and designers.

Our Season includes both classic story and those that are dervied from more recent literature. ('The Railway Children' to 'Junie B. Jones') Season 8 promises to be full of creative challenges, and new audiences experiences. Our Season is diverse and exciting. 'Balloonacy' is a wonderful performance theatre piece that tells story through physical action and clowning techniques, 'James and the Giant Peach' includes puppertry (we rent the puppets made from Seattle Children's Theatre), and 2BWUT UR is classic Morris Panych that delves into the mind of a teen as he discovers who is truly is.

We want to make it possible for the family to experience theatre TOGETHER.

#### Strengthening the Arts Community

BCT strengthens the arts community in several ways. We are the only dedicated Theatre for Young Audiences (TYA) in the Kelowna and surrounding area. Our organization plays a critical role in developing future audiences.

We have been the stage for original works, featuring new scripts, new musical scores, as well as original soundscape music. We produce shows from the ground up, building sets, costumes, and we are one of two local companies that have their own dedicated space out of 10 local theatre organizations.

Our commitment to developing talent remains strong and has been exercised the following ways:

- Collaborative script writing with our junior performers, including original music written by our performers and performed as apart of the staged productions
- Continued development of our C.A.S.T. youth development program- an intensive program linking youth with their passion and with the community
- Original artwork for our season posters by local visual artists
- Providing barrier free entertainment in partnership with Festivals Kelowna, taking the theatre into our mirco-communities and performing in Parks, an original piece written by Artistic Director, Tracy Ross
- New works for schools and audiences (over 10 original plays produced in 7 years)
- Enlisting volunteer support and providing opportunities for stewardship within the arts
- Providing artists/ designers a working opportunity in their own community
- We provide access to a larger theatre community and experts.

Recent workshops include:

- Jeff Hyslop- 'Phantom' in the Canadian Touring Production, 'Today's Special'
- David Ley- University of Alberta and Stratford
- Bill Allman- Vancouver based writer, producer
- Scott Bellis- Actor, Director, Teacher (Bard on the Beach Founder, Studio 58)

Our Artistic Director is committed to personal development and collaboration;

- This past summer she met with several Vancouver based companies/ professionals such as Carousel Theatre (Carole Higgens), Touchstone Theatre, Max Reimer and Howard Jang.
- This November (2015) Bumbershoot will travel one of their productions to Revelstoke
- BCT is spearheading an alliance between 2 other local theatre groups in an effort to reduce redundancies and increase efficiency in tackling some common challenges
- Partnering with UBCO to offer '24 hour play challenge'
- Supporting other local arts and/ or community events

These are just some of the ways that we strengthen the Arts in our community and will continue to do so in our upcoming season.

Prior to every performance the audience is able to engage in an activity that links the educational themes or creative themes of the show, then are able to take these home with them as memories. The actors greet the audiences after each performance, giving hugs, answering questions, listening to comments and creating discussion.

#### How does Bumbershoot benefit the community?

- Theatre classes encourage and promote self-expression and social growth in ageappropriate classes
- Provide barrier-free, affordable family entertainment- and programming
- Cultivates theatre appreciation in youth and families
- Provide an opportunity for parents and children to share in an interactive learning experience
- Theatre promotes literacy by creating dynamic, memorable and relevant experiences for students
- Provide an opportunity for children and youth to: communicate effectively, solve problems creatively, work co-operatively, make and meet commitments, develop self-assurance and independence
- To educate people in all theatre arts including: acting, dance, set design and construction, costuming and make-up, the design and use of sound and light systems, performance, direction and production
- We create a life long appreciation among our audiences and participants who will continue to support theatre, music, dance and related arts as adults
- Create partnerships with other community organizations to support their activities with young performers and/or volunteers
- Job creation for youth and adults
- Increased involvement of youth in community programming and volunteerism
- Increased community partnerships ad collaboration (i.e. OSO partnership)

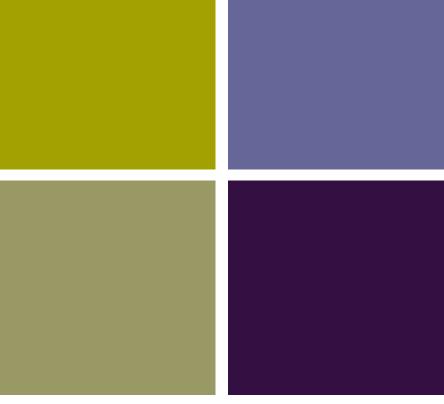
- A colorful addition to Kelowna's Cultural district
- Increase in the number of barrier-free programming for youth and families
- The vision is to move our children and youth towards a world of imagination and creativity that supports learning and educational focus. Benefiting our Community Children with; Improved Communication Skills, Critical Thinking Skills, Social Skills and Core Values.
- The life skills (along with acting skills) that come from the classes are astounding. It is amazing that all of this can be learned in a fun and joyful environment, where positive reinforcement is used while teaching projection, diction, mime, posture, body movement and vocal skills, and of course the whole process of putting on a play builds individual and group pride enormously.
- In addition to teaching theatre skills, Bumbershoot fosters community building by involving family, friends and members from the arts community to help with our theatrical productions which may include costume and set making, choreography, voice coaching and more.

We strive to ensure the program's longevity and sustainability by:

- Actively seeking partnerships with like-minded organizations and businesses. Creating strong community relationships
- Staying relevant in our programming and offering plays and programming that are current
- Involving local talent in our Mainstage productions
- Including as many youth and families in our activities as possible
- Actively exploring new and creative revenue streams to offset program expenses, and enhance core activities
- Re-using set pieces and costumes where possible, as well as borrowing from other theatre (and other) organizations
- Leveraging funds from various sources to help extend program resources
- Continually evaluating program strengths and weaknesses during the planning cycles, and adjusting as needed.
- Engage our young performers in program specific fundraising







### **Bumbershoot Theatre**

BCT is dedicated to introducing youth (children) and families to the incomparable magic of theatre. Our aim is to stimulate, and liberate the imagination, the intellect and the spirit through creative experiences and promote theatre as an integral part of the learning process.









 We believe that theatre can transform, illuminate and heal Arts education is a critical component and way for children to thrive We believe in encouraging the possibility of mystery and magic in our lives We value curiosity

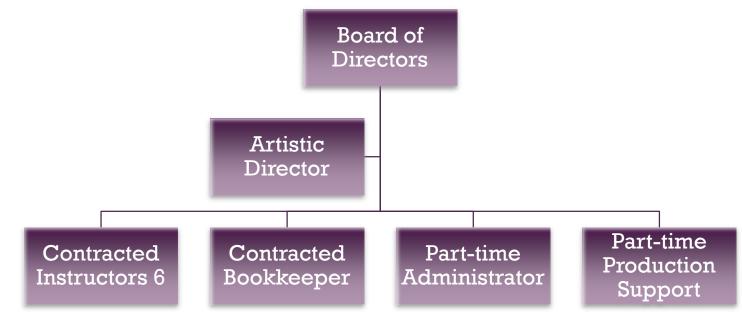
Accessibility

A working environment of collaboration, creativity and self-expression Volunteerism

Excellence



# + BUMBERSHOOT TEAM



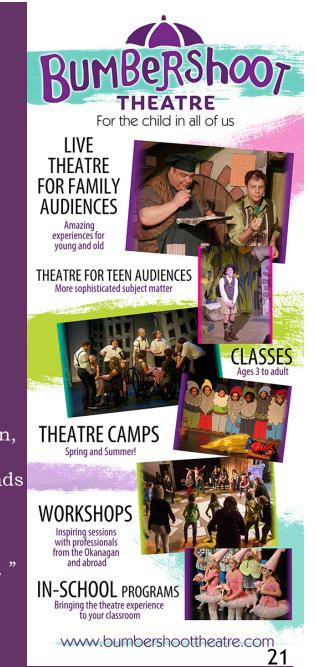
- 9 board members- includes 4 youth representatives
- Volunteers play an integral part of what we do on many levels



# Our Programs Our Community

"Imagine your favourite cities. When people visit Paris London, New York, Toronto, Moscow, Montreal, New Delhi, Tokyo, Edmonton or Calgary, they aren't coming for low taxes or roads without potholes. People visit the world's great cities for the depth and breadth of their arts and culture, their history, their storehouses of human knowledge

- in other words they come to experience the soul of the city. " Lois Hole





## Family Mainstage











6-8 productions a yearAdult Performers10 performances/ show

## Community Classes/Camps/ Workshops

Fall/Winter/SpringSummer Camps





David Ley





## SoundPlay and more...











## + In the Schools

- "Working with Tracy helped our students to develop as actors and in the process they also developed confidence, acceptance of each other, collaboration skills and the willingness to take risks. Tracy's impact on our students continues to be felt, even though the program is over."
- Watching some of my most at-risk, behavior designated students fully participating in the drama activities was incredible for me as their teacher.







## C.A.S.T.





### Youth Development

Collaborative Arts for Stage and Theatre



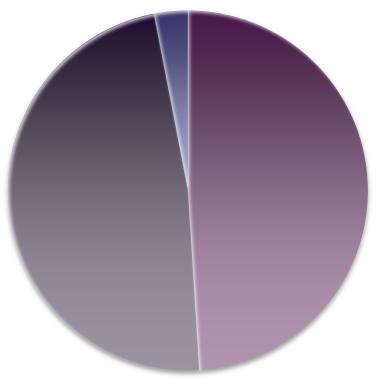
- City of Kelowna
- Central Okanagan Foundation
- Kids Care
- BC Arts Council
- BC Gaming



City of Kelowna Operating Grant represents 7.5% of total budget



### REVENUES



Earned Revenue 49%

Grant Revenue 48%

Sponsors and Donors 3%

**Operating Budget \$ 213,000** 

### **Expenses**

Rights Costumes Set Props Director Cast Construction Lights Program Supplies 50% A.D.

- Production Expenses 46%
- Facility Rental 25%
- Administration 29%





Bumbershoot serves our community through a variety of programs, reaching just over 18,000 people in 2015.

- Tour of School District #23-10,700
- Classes, Camps, Schools 2322
- Mainstage and Public Performances- 4178
- -Volunteers 150+
- and other special projects and community events





# + WHAT'S TO COME...

- Continued Board Development
- Unique Artistic Experience
- Deeper relationship with Education (SD 23 and other districts)
- Collaborations
- Increase Impact
- Nurture future artists and leaders
- Artist Retention





## + THANK YOU !!!

Come see us at the theatre!!!



www.bumbershoot the atre.com



@bumbershoottheatre



Facebook.com/bumbershoottheatre

## + Bumbershoot Theatre





## **Okanagan Lake Second Crossing Project**

## Central Okanagan Planning Study

Status Update City of Kelowna

August 8, 2016



Ministry of Transportation and Infrastructure

## Agenda

- History / Background
- Study Area
- The Study Process
- Key Findings To Date
- Context for Hwy 97 Options
- Considering the Role of Hwy 97
- Testing Ideas a Sample
- Current Activity
- Looking Ahead
- Project Schedule



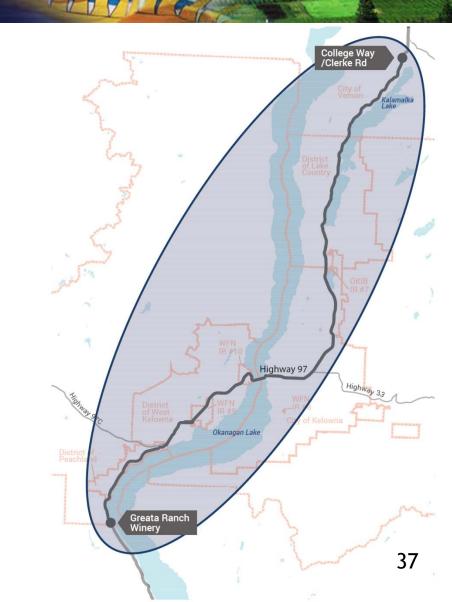
Ministry of Transportation and Infrastructure

## History / Background

- Study initiated in late 2014 to assess future mobility needs in Central Okanagan
  - Building on previous work to develop potential route proposals considering:
    - Public needs
    - Community land use plans
    - Provincial transportation priorities
  - Include consideration of second crossing
  - Consideration of options in West Kelowna, including alternate route, part of scope
  - Examination of existing corridor & alternate route options for Peachland added in December 2015
  - Extensive stakeholder & public engagement throughout

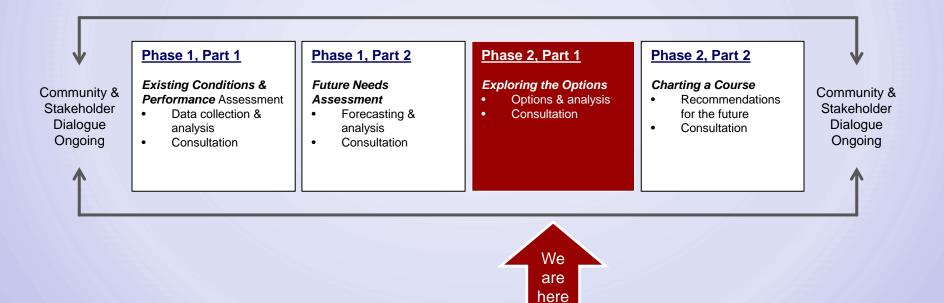


## Study Area





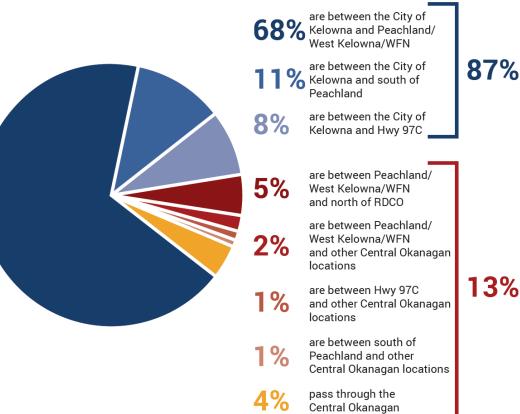
## The Study Process





# Key Findings to Date

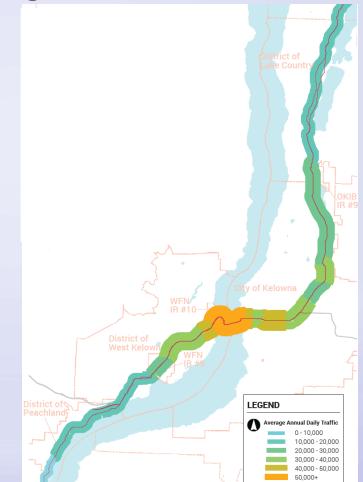
- 96% of trips on the W.R. Bennett Bridge start or end in the Central Okanagan, up from 85% in 1994
- More than 2/3 of the trips are between Kelowna and Peachland / West Kelowna / Westbank First Nation





# Key Findings to Date

- Traffic volumes are highest on the William R. Bennett Bridge.
- The greatest *congestion* lies in the urban portions of the corridor on either side of the bridge, which have less capacity than the bridge itself.
- Findings led to discussion: What is the appropriate future role of Highway 97?





# Context for Hwy 97 Options

## 2011 OVTS Symposium Vision for Okanagan Transportation System

- Be a safe, functional & efficient network
- Include fully accessible public & active transportation options within and between communities
- Be a coordinated approach to multi-modal and sustainable transportation
- Protect & preserve rail & other ROWs [rights of way] for the future
- Plan network improvements, assisting in community revitalization and provision of alternate routes



# Considering the Role of Hwy 97

- There is a need to examine the role of the provincial highway
  - What should its characteristics be?
  - Should access points be restricted to allow longer-distance traffic to move unfettered?
  - Should the alignment of the provincial highway be moved?
  - Should the highway bypass the region?
  - What would happen to the existing facility?

... Discussion is ongoing through engagement process

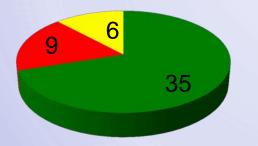


## Testing Ideas – a Sample

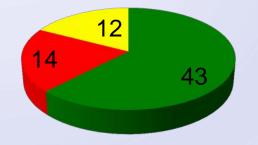
## Fall 2015 open houses – respondent views on access measures:

## Kelowna

West Kelowna



SupportOpposeUncertain



Support
Oppose
Uncertain



## **Current Activity**

Options generation:

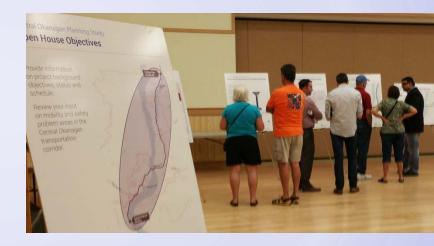
- Measures to improve the efficiency of the existing corridor (access measures)
- Realignment of the highway through/ around communities
- Potential second crossing alignments

...Applying feedback received in engagement to date



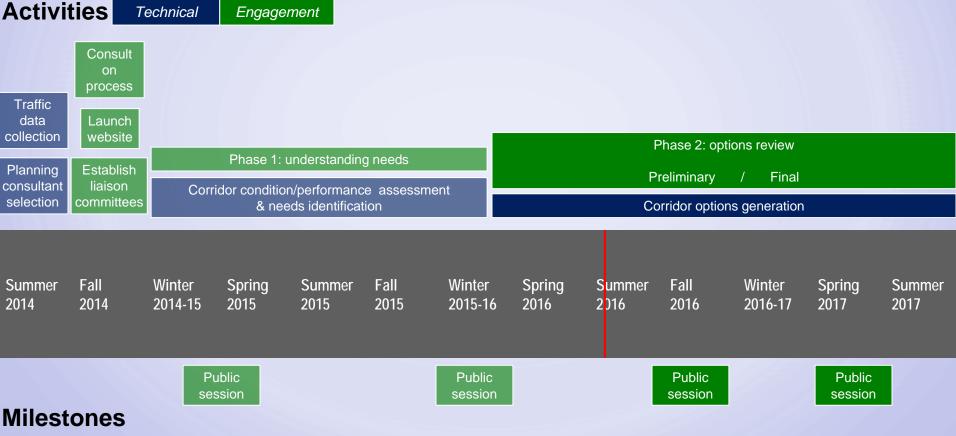
## Looking Ahead

- Further engagement with local municipalities & First Nations staff
- Additional engagement with Community Working Group and Technical Advisory Committee
- Periodically touch base with local Councils
- Public open house in fall 2016
  - Ultimate deliverable in 2017: short, medium and long term solutions for the corridor with an associated migration strategy





## **Project Schedule**





# BRITISH COLUMBIA

## **REPORT TO COUNCIL**



Date:	August 8, 2016
RIM No.	1210-10
То:	City Manager
From:	Community Planning Department (MS)
Application:	TA16-0006
Subject:	Agri-tourist Accommodation (A1t)

### 1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA16-0006 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in the Report from the Community Planning Department dated August 8, 2016 be considered by Council;

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

AND FURTHER THAT effective August 8, 2016, in accordance with Development Applications Bylaw No. 10540 Section 2.1.2 (d), Council directs staff to not accept new zone amending applications for Agri-tourist Accommodation in the Agriculture 1 - A1t zone until Text Amendment Bylaw No. 11265 has had final reading consideration.

## 2.0 Purpose

To amend Zoning Bylaw No. 8000 by prohibiting the use of Agri-tourist Accommodation within the A1 - Agriculture 1 Zone, from the date of adoption of the Text Amendment, with the exception of existing conforming operations and those applications currently in process.

## 3.0 Community Planning

Community Planning supports the amendment to prohibit future use of agri-tourist accommodation as a permitted use in Section 11 - A1t-Agriculture 1 with Agri-tourist Accommodation Zone from Zoning Bylaw No. 8000. Staff notes that this would not impact current conforming operations, nor applications currently in process.

This is in response to challenges agri-tourist accommodation presents with respect to maintaining compliance of the use with respect to:

- Seasonality;
- Temporary (no more than 30 days);
- For tourists; and
- Accessory and subordinate to agriculture.

## 4.0 Proposal

## 4.1 Background

Agri-tourist accommodation is a permitted non-farm use in the Agricultural Land Reserve (ALR) according to the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (ALC Regulation). While the use is a permitted non-farm use by the Agricultural Land Commission (ALC), the activity is not designated as a "farm use" and therefore may be regulated or prohibited by a local government bylaw (see attached ALC Bulletin Policy #5)<sup>1</sup>. Section 3(1) of the ALC Regulation states that agri-tourist accommodation is one of the uses:

'permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw'.

The City of Kelowna currently regulates this use by allowing agri-tourist accommodation as a secondary use if the accommodation is associated with an agri-tourism activity which is subordinate and secondary to the principal agriculture use. The intent of City of Kelowna's A1t zone has been to provide assistance to bona fide farmers who wish to provide seasonal accommodation proven to be in aid of and directly associated with established farm operations that include an agri-tourism component. Accommodations temporary in nature may be operated on a seasonal basis subordinate to the agricultural operation.

Staff continue to meet with members of the public regarding the use and misuse of existing agritourist accommodation operations in the City. It is clear that a number of residents are impacted by this land use and farm operators await clear direction on this matter.

Staff notes that Metro Vancouver has policy which prohibits municipal servicing, specifically sewer, into the Agricultural Land Reserve<sup>2</sup>. This restriction has been a strong deterrant to requests for Agri-tourist Accommodation units in Metro Vancouver<sup>3</sup>.

## 4.2 Project Description

The proposed amendment will prohibit future agri-tourist accommodation within the A1 - Agriculture 1 Zone within the City. The prohibition amendment stems from the challenges for the City to maintain compliance of this permanent secondary use that must be accessory to agriculture, which by nature is a use that can change from year to year. Additional challenges to enforcement and compliance are met with the requirements of seasonality, a maximum 30 day stay, and intended for tourists only. City enforcement resources has been challenged to maintain compliance on existing operations. While some operations are compliant, the expectation is that additional operations would require additional enforcement efforts overall.

The use became a permitted use under the ALC Regulation in 2003. Since then, the City of Kelowna has 15 existing agri-tourist operations operating under the ALC Regulation prior to the City of Kelowna Agri-tourist Accommodation (A1t) Zoning Amendment passed by Council in 2010. Two properties have been zoned A1t since 2010, both of which are under development but have not started operation. Of the 15 that were in operation prior to 2010:

- 5 operations are in court proceedings with the City regarding non-compliance;
- 4 operations have outstanding non-compliance concerns;
- 4 operations are compliant; and
- 2 operations are zoned, but under development / yet to develop.

<sup>&</sup>lt;sup>1</sup> ALC, March 2003. Permitted Uses in the ALR: Agri-tourism Accommodation – Policy #5 – Bulletin.

<sup>&</sup>lt;sup>2</sup> Metro Vancouver , 2010. Metro Vancouver 2040 Regional Growth Strategy. p. 29.

<sup>&</sup>lt;sup>3</sup> K. Grout, February, 2016. CEO, Agricultural Land Commission, personal communication.

Bylaw complaints from neighbours and compliance issues include:

- Noise;
- Visual impacts (unsightly premises);
- Permanent use (additional decks, RVs not on wheels);
- Difficulty to enforce the continuation of farming;
- No supporting agri-tourism activities (e.g. tours or farm experience);
- Complaints of residents and guests of RV site to neighbouring farms regarding normal farm practice (e.g. spraying, early morning noise, dust); and
- Additional illegal RV storage.

Given the challenges of maintaining compliance with the bylaw regulations of this use, and an understanding that additional operations, overall, will likely pose similar challenges and bylaw enforcement resources, the text amendment proposes to prohibit further agri-tourist accommodation operations within the City of Kelowna.

Staff notes that, with this text amendment:

- The A1t zone and use will remain for those properties currently zoned;
- The prohibition would apply going forward from the date of the report; and
- Operations conforming to the ALC Regulation prior to 2010 could remain, within the compliance requirements of the Regulation.

The details of the text amendment are outlined in Schedule "A".

## 5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

## Future Land Use<sup>4</sup>

With respect to lands outside the Permanent Growth Boundary, Chapter 4 of the OCP states:

• Lands outside the permanent growth boundary will not be supported for urban uses.

## Farm Protection Development Permit Guidelines<sup>5</sup>

Farm Protection Development Permit Guidelines include:

- Protect farm land and farm operations;
- Minimize the impact of urban encroachment and land use conflicts on agricultural land;
- Minimize conflicts created by activities designated as farm use by ALC regulation and non-farm uses within agricultural areas.

<sup>&</sup>lt;sup>4</sup> City of Kelowna Official Community Plan, Chapter 4.7 (Future Land Use).

<sup>&</sup>lt;sup>5</sup> City of Kelowna Official Community Plan, Chapter 15.2 (Farm Protection DP Guidelines).

## Objective 5.33 Protect and enhance local agriculture<sup>6</sup>.

## Policy. 1 Protect Agricultural Land.

Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

## Policy .3 Urban Uses.

Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

## Policy .7 Non-farm Uses.

Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Objective 5.34 Preserve productive agricultural land<sup>7</sup>.

## 5.2 City of Kelowna Agriculture Plan

## ALR Application Criteria<sup>8</sup>

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

## 5.3 City Development Applications Bylaw No. 10540

## Bylaw Amendments Section 2.1.2.(d)

Notwithstanding Schedule '2' of this bylaw, Council may, by resolution, agree to postpone giving consideration to individual amendments to an Official Community Plan Bylaw or Zoning Bylaw until completion of any major review that the said bylaw may be undergoing at the time of the request.

## 6.0 Authority and Considerations

## Legal/Statutory Authority:

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 3 (1) (a)

### Section 3 (1) "the following land uses are permitted in an agricultural land reserve **unless** otherwise prohibited by a local government bylaw: (a) accommodation for agri-tourism on a farm if

<sup>&</sup>lt;sup>6</sup> City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.33.

<sup>&</sup>lt;sup>7</sup> City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.34.

<sup>&</sup>lt;sup>8</sup> City of Kelowna Agriculture Plan (1998); p. 130.

(i) all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act,
(ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and
(iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;

## Considerations not applicable to this report:

Financial/Budgetary Considerations Personnel Implications Alternate Recommendation Communications

Report prepared by:

Melanie Steppuhn, Planner Specialist

Reviewed by:	Todd Cashin, Subdivision, Suburban and Rural Planning Manager		
Reviewed by Approved for Inclusion:	Ryan Smith, Community Planning Department Manager		
Approved for Inclusion:	Doug Gilchrist, Divisional Director, Community Planning & Rea Estate		

Attachments: Schedule "A" - Text Amendment TA16-0006 ALC Regulation Policy #5

Cc:

Divisional Director of Community Planning & Real Estate Divisional Director of Corporate and Protective Services Divisional Director of Communications and Information Services Director Development Services Bylaw Services Manager Building & Permitting Manager City Clerk Policy & Planning Manager

## Schedule A - TA16-0006 List of Amendments to Zoning Bylaw No. 8000 (A1t - Agriculture 1 with Agri-tourist Accommodation Zone)

	Zoning Bylaw No. 8000				
No.	Section	Existing	Proposed	Explanatory Note	
1.	Replace 11.1.3 (c) Secondary Uses	(c) agri-tourist accommodation (A1t only)	(c) agri-tourist accommodation use prohibited except for operations existing and in conformance prior to prior to July 25, 2016.	The prohibition of the use will apply going forward.	
2.	Delete 11.6.7 (f) Other Regulations	(f) A "t" notation shown on Schedule "A" as part of the identified zone classification indicates that a secondary use in the form of agri-tourist accommodation is permitted on the properties so designated, subject to meeting the conditions of use of the zone. A "t" zoning classification on a property shall be established by rezoning the subject property to the "t" version of parent zone.			
3.	Delete 11.1.8 Other Regulations - Agri-tourist accommodation	<ul> <li>a) Purpose</li> <li>Agri-tourist accommodation shall be accessory and subordinate to a legitimate agriculture operation. The intent is to augment or subsidize and not to replace or compete with farm income.</li> <li>b) Farm status</li> <li>As per Agricultural Land Commission regulation, all or part of the lot on which the use is located must be classified as a farm under the Assessment Act.</li> <li>c) Site coverage</li> </ul>			

Site coverage for agri-tourist accommodation shall not exceed 5% inclusive of buildings, landscaping, access, and servicing/sanitary facilities.
d) Minimum lot size
Agri-tourist accommodation shall not be located on lots smaller than 4.0 ha in size.
e) Maximum number of agri-tourist accommodation units permitted
For lots larger than or equal to 4.0 ha in size, agri-tourist accommodation shall be permitted according to the following table:
Lot size (hectares)       < 4.0
* See Section 11.1.8(g)
g) Bed & breakfasts
When a bed and breakfast is present on the lot, the number of agri-tourist accommodation units permitted shall include the number of the sleeping units of the bed and breakfast use.
h) Location
Agri-tourist accommodation shall be located so as to minimize the impacts on arable land, recognizing that the use is intended to support agriculture and not replace it. All agri- tourist accommodation units shall be located within 30.0 m of the road frontage of the lot, or within 30.0 m of the principal dwelling, or a location acceptable to the Director of Land Use Management. No agri-tourist accommodation shall be permitted within 10.0 m of any lot line other than the front lot line.
i) Access, buffering and landscaping
Access driveways for agri-tourist accommodation shall be water permeable (i.e. not asphalt or concrete) and a Level 5 Landscape Buffer (incl. fencing) is required around the

		<ul> <li>perimeter of the agri-tourist accommodation, and at an affected property line to mitigate the impact of agri-tourist accommodation on abutting properties.</li> <li>j) Servicing</li> <li>Agri-tourist accommodation shall be serviced according to the requirements and approval where applicable of the City of Kelowna, the Health Authority, and the water purveyor or Irrigation District having authority, including but not limited to the following: <ol> <li>If the agri-tourist accommodation includes recreational vehicles and where individual water and sewer connections are not provided a sanitary dump facility is to be provided on the property.</li> <li>Adequate bathroom facilities with hot and cold running water are required for agri-tourist accommodation campsites.</li> </ol> </li> </ul>		
4	Relocate and Amend Section 11.1.8 (f)	<ul> <li>f) Recreational vehicles</li> <li>Outside storage of recreational vehicles is not permitted, other than recreational vehicles that are registered to the property owner. Storage of recreational vehicles is not permitted on the recreational vehicle site. No structures are permitted at recreational vehicle sites or at campsites.</li> </ul>	Relocate to Section 11.1.7 Other Regulations (f) Recreational vehicles Outside storage of recreational vehicles is not permitted, other than two recreational vehicles that are registered to the property owner.	Amend the restriction of RV storage in the A1 - Agriculture 1 zone to the whole zone.



Policy #5 March 2003

## PERMITTED USES IN THE ALR: Agri-tourism Accommodation

This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.

### **REFERENCE:**

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 3 (1) (a)

Section 3 (1) "the following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government by law:

(a) accommodation for agri-tourism on a farm if

- (i) all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act,
- (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and
- (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;

Section 1 (1)

*"agri-tourism"* means a tourist activity, service or facility accessory to land that is classified as a farm under the <u>Assessment Act</u>

### "sleeping unit" means

- (a) a bedroom or other area used as a bedroom in a cabin, dwelling or accessory building, and
- (b) a tent or recreational vehicle on a campsite

### **INTERPRETATION:**

The Regulation permits accommodation for agri-tourism on a farm, provided all the following three criteria are met:

- 1. All or part of the parcel must be classified as a farm under the Assessment Act;
- 2. The accommodation must be 10 or fewer sleeping units including seasonal campsites, seasonal cabins or short term use of bedrooms, including bed and breakfast bedrooms allowed under Section 3 (1) (d) of the Regulation; and
- 3. The total developed area for this use including buildings, landscaping and access, (driveways and parking), must be less than 5% of the total parcel area.

Local governments may prohibit this use or allow the use with the above restrictions. The local government may also have additional requirements for such things as parking, signage, setbacks etc.

Under this Regulation, agri-tourism accommodation can only be located on an ALR parcel that is assessed as a farm, and the accommodation use must be accessory to the principle use of the property which is farming. This use is permitted only if the property is assessed as 'farm' and if the assessment changes, this use is no longer permitted. The use of campsites or cabins (separate from dwellings) for agri-tourist accommodation must be seasonal which this policy interprets as less than 12 months of the year. In other words, the campsites or cabins must not be available for paying guests for the full year or 12 consecutive months. A single tent or a single recreational vehicle on a campsite on the parcel counts as one sleeping unit.

However bedrooms in a dwelling or building accessory to a dwelling, may be offered for tourist accommodation year round, or the full 12 months, i.e. there is no 'seasonal' requirement for this type of sleeping unit. A bedroom, or other area such as a living room used as a bedroom (i.e. with a bed), counts as one sleeping unit. All the sleeping units must be used only for tourist accommodation for paying guests.

The farm on which the accommodation is located may be comprised of one or several parcels of land owned or operated by a farmer as a farm business.

The maximum limit of 10 sleeping units includes the number of bed and breakfast bedrooms permitted under Section 3 (1) (d) of the Regulation. For example, if there are already 3 bed and breakfast bedrooms on a parcel, only 7 additional sleeping units may be permitted under the Regulation, to meet the maximum of 10 in total. See Commission Policy "Permitted Uses in the ALR: Bed and Breakfast Use".

Agri-tourism accommodation uses that do not meet the conditions established in the Regulation, for example uses with more than 10 sleeping units, require application to and approval from the Commission.

#### Where a zoning bylaw is in place, this use must be specifically permitted by the bylaw.

#### **TERMS:**

**Short term** – means the use by a tourist of bedroom accommodation for agri-tourism for a period of not more than 30 consecutive days. The term 'tourist' used in this policy, means a person who travels from place to place away from their permanent residence for pleasure or business.

## **CITY OF KELOWNA**

## BYLAW NO. 11265 TA16-0006 - Amendments to the A1t - Agriculture 1 with Agri-Tourist Accommodation

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 Section 11 Agricultural Zones, 11.1 A1-Agriculture 1/A1c Agriculture 1 with Carriage House/A1t - Agriculture 1 with Agri-tourist Accommodation be amended by:
  - a) Deleting in 11.1.3 Secondary Uses, sub-paragraph "(c) agri-tourist accommodation (A1t only)" and replacing with "(c) agri-tourist accommodation use prohibited except for operations approved and in conformance prior to August 8, 2016."
  - b) Deleting in its entirety, from 11.1.7 Other Regulations (f) the following:
    - "(f) A "t" notation shown on Schedule "A" as part of the identified zone classification indicates that a **secondary use** in the form of **agri-tourist accommodation** is permitted on the properties so designated, subject to meeting the conditions of **use** of the **zone**. A "t" zoning classification on a property shall be established by rezoning the subject property to the "t" version of parent zone."

And replace with:

- "(f) Outside storage of recreational vehicles is not permitted, other than two (2) recreational vehicles that are registered to the property owner."
- c) Deleting in its entirety, from **11.1.8 Other Regulations** Agri-tourist accommodation be deleted in its entirety that reads:
  - "a) Purpose

Agri-tourist accommodation shall be accessory and subordinate to a legitimate agriculture operation. The intent is to augment or subsidize and not to replace or compete with farm income.

b) Farm status

As per Agricultural Land Commission regulation, all or part of the lot on which the **use** is located must be classified as a farm under the Assessment Act.

c) Site coverage

**Site coverage** for **agri-tourist accommodation** shall not exceed 5% inclusive of **buildings**, landscaping, access, and servicing/sanitary facilities.

d) Minimum lot size

Agri-tourist accommodation shall not be located on lots smaller than 4.0 ha in size.

e) Maximum number of agri-tourist accommodation units permitted

For **lots** larger than or equal to 4.0 ha in size, **agri-tourist accommodation** shall be permitted according to the following table:

Lot size (hectares)	< 4.0	4.00 to 5.99	6.00 to 6.99	7.00 to 7.99	8.00 to 8.99	9.00 to 9.99	≥ 10.00
Agri-tourist accommodation units *	×	5 units	6 units	7 units	8 units	9 units	10 units
* See Section 11.1.8(g)							

f) Recreational vehicles

Outside storage of **recreational vehicles** is not permitted, other than **recreational vehicles** that are registered to the property owner. Storage of **recreational vehicles** is not permitted on the **recreational vehicle** site. No structures are permitted at **recreational vehicle** sites or at campsites.

#### g) Bed & breakfasts

When a bed and breakfast is present on the lot, the number of **agri-tourist accommodation** units permitted shall include the number of the **sleeping units** of the **bed and breakfast** use.

h) Location

Agri-tourist accommodation shall be located so as to minimize the impacts on arable land, recognizing that the use is intended to support agriculture and not replace it. All agri-tourist accommodation units shall be located within 30.0 m of the road frontage of the lot, or within 30.0 m of the principal dwelling, or a location acceptable to the Director of Land Use Management. No agri-tourist accommodation shall be permitted within 10.0 m of any lot line other than the front lot line.

i) Access, buffering and landscaping

Access driveways for agri-tourist accommodation shall be water permeable (i.e. not asphalt or concrete) and a Level 5 Landscape Buffer (incl. fencing) is required around the perimeter of the agri-tourist accommodation, and at an affected property line to mitigate the impact of agri-tourist accommodation on abutting properties.

j) Servicing

**Agri-tourist accommodation** shall be serviced according to the requirements and approval where applicable of the City of Kelowna, the Health Authority, and the water purveyor or Irrigation District having authority, including but not limited to the following:

- i. If the **agri-tourist accommodation** includes **recreational vehicles** and where individual water and sewer connections are not provided a sanitary dump facility is to be provided on the property.
- ii. Adequate bathroom facilities with hot and cold running water are required for **agri-tourist accommodation** campsites."
- 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

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

## **REPORT TO COUNCIL**



Date:	August 8,20	<sup>16</sup> Kelov	
RIM No.	1250-30	<b>NEIUV</b>	
То:	City Manager		
From:	Community P	lanning (DB)	
Application:	OCP16-0011/	Z16-0041 <b>Owner:</b> Calcan Joint Venture	
Address:	(E OF) Upper	Mission Dr. Applicant: Dave Lange	
Subject:	OCP16-0011/	Z16-0041	
Existing OCP D	esignation:	Single / Two Unit Residential Hillside,Multiple Unit Residential, Major Park & Open Space	
Proposed OCP	Designation:	Single / Two Unit Residential Hillside,Multiple Unit Residential, Major Park & Open Space	
Existing Zones: Proposed Zones:		P3- Parks and Open Spaces, RH1 - Hillside Large Lot Residential, RH3 - Hillside Cluster Housing P3- Parks and Open Spaces, RH1 - Hillside Large Lot	
		Residential, RH3 - Hillside Cluster Housing	

## 1.0 Recommendation

THAT Official Community Plan Bylaw Amendment No. OCP16-0011 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of portions of North East <sup>1</sup>/<sub>4</sub> Section 14 Township 28 SDYD Except Plans KAP57304 and EPP48322 from the Multiple Unit Residential to Single/Two Unit Residential, from Single/Two Unit Residential to Multiple Unit Residential, and from Multiple Unit Residential to Major Park/Open Space (Public) as shown on Map "A" attached to the report of Community Planning, dated August 8, 2016 be considered by Council;

AND THAT Council considers the Public Information Session public process to be appropriate consultation for the purpose of Section 879 of the Local Government Act, as outlined in the Report of Community Planning, dated August 8, 2016;

AND THAT Rezoning Application No. Z16-0041 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of portions of North East ¼ Section 14 Township 28 SDYD Except Plans KAP57304 and EPP48322 from RH3-Hillside Cluster Housing to RH1-Hillside Large Lot Housing, From RH1-Hillside Large Lot Housing to RH3-Hillside Cluster Housing, and from RH1-Hillside Large Lot Housing to P3-Park and Open Space as shown on Map "B" attached to the report of Community Planning, dated August 8, 2016 be considered by Council;

AND THAT the Official Community Plan Bylaw Amendment and the Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction;

## 2.0 Purpose

To amend the Official Community Plan Future Land Use Designation and to rezone portions of the subject properties in order to accommodate the development of a single family subdivision.

## 3.0 Community Planning

Planning Staff support the proposal as it is seen to be an administrative exercise to reflect the detailed subdivision layout. The proposed amendments will result in a net gain in natural open space while maintaining the overall vision of the Official Community Plan for the area.

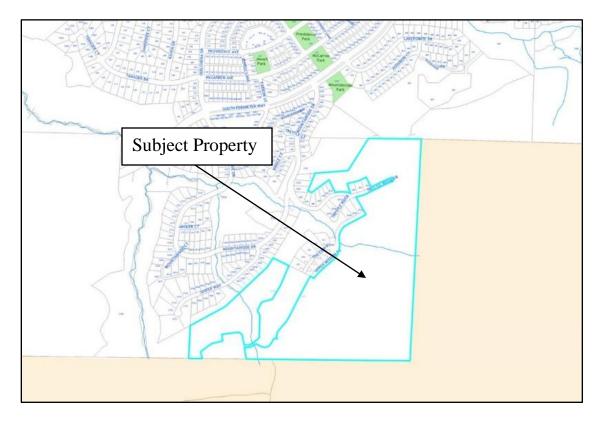
## 4.0 Proposal

## 4.1 Project Description

This applicant is seeking Council support to amend the OCP future land use designation and rezone portions of the second phase of the Trestle Ridge development. The detailed lot configuration and road design has now been created for this phase and this application is intended to align the zoning and OCP designations with the proposed lot layout.

## 4.2 Site Context

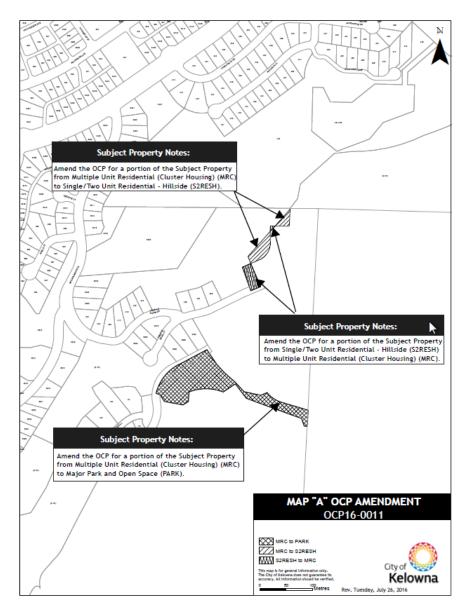
## Subject Properties Map:



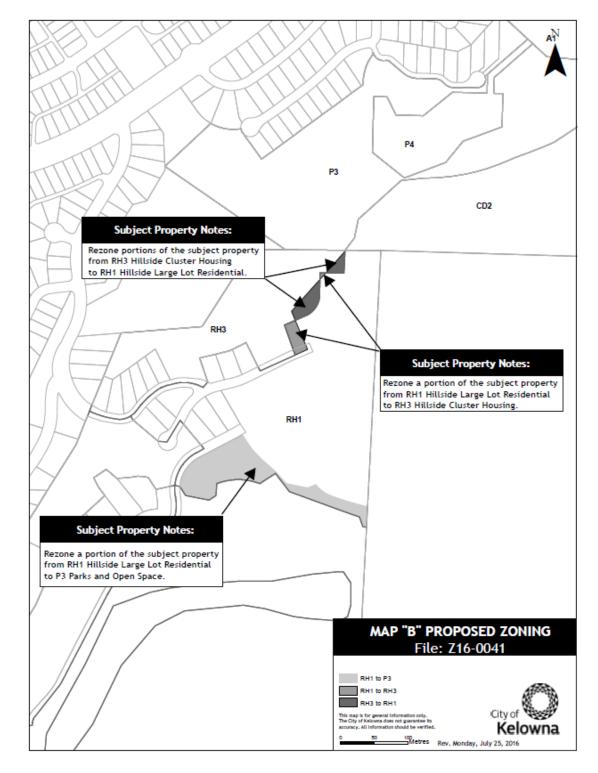
Orientation	Zoning	Land Use
North	CD2 - Kettle Valley Comprehensive	Single/Two Unit Residential
NOLLI	Development	
East	Regional District of Central Okanagan	Single Family Housing
South	P3 - Parks and Open Spaces	Park
West	CD2 - Kettle Valley Comprehensive	Single Family Housing
	Development	

The subject property is located at the Southwest of town in a predominantly single family neighbourhood. Adjacent land uses are as follows:

## 4.3 Proposed OCP amendments



## 4.4 Proposed Zoning Amendment



## **Application Chronology**

Date of Application Received:	July 5, 2016
Public Notification Received:	July 25, 2016

Report prepared by:

Damien Burggraeve, Land Use Planner

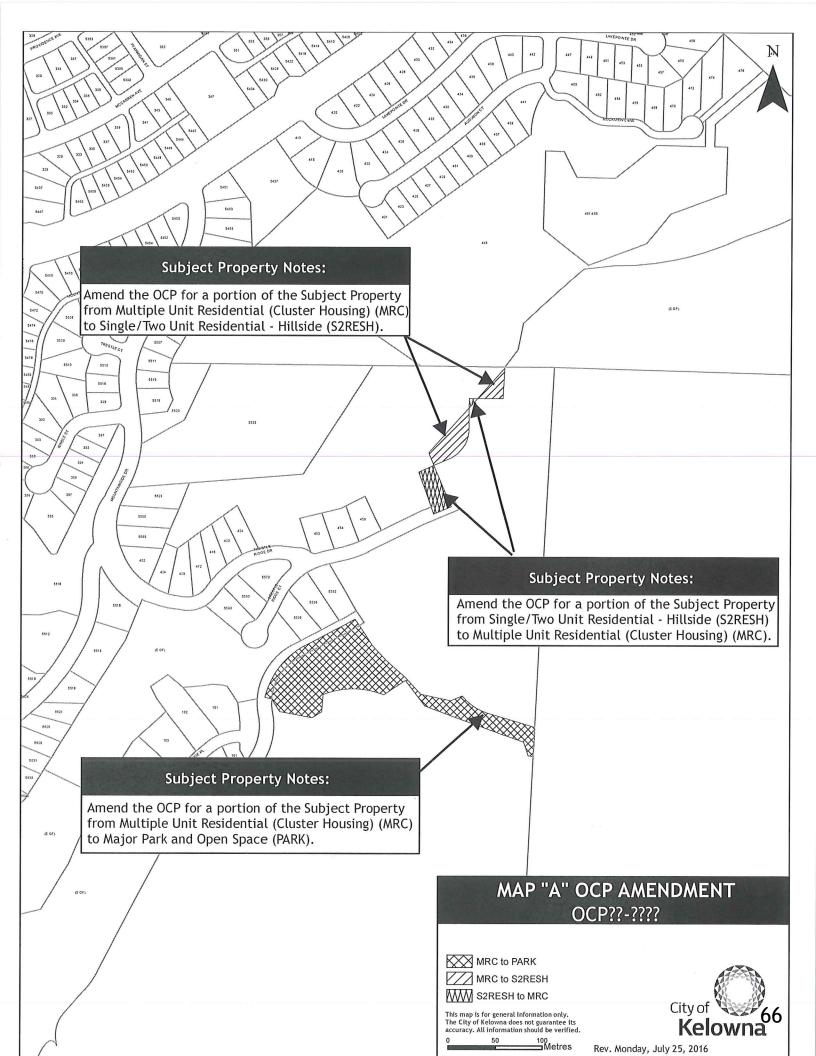
Approved for Inclusion:

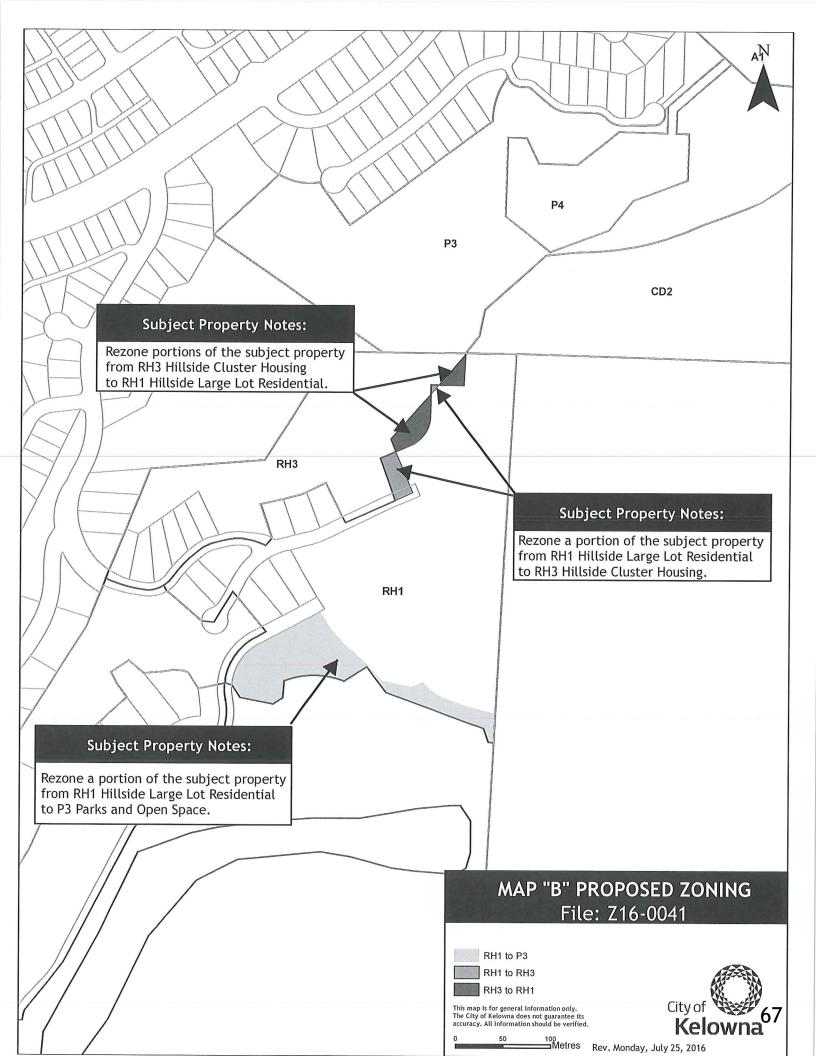
\_\_\_\_ Rya

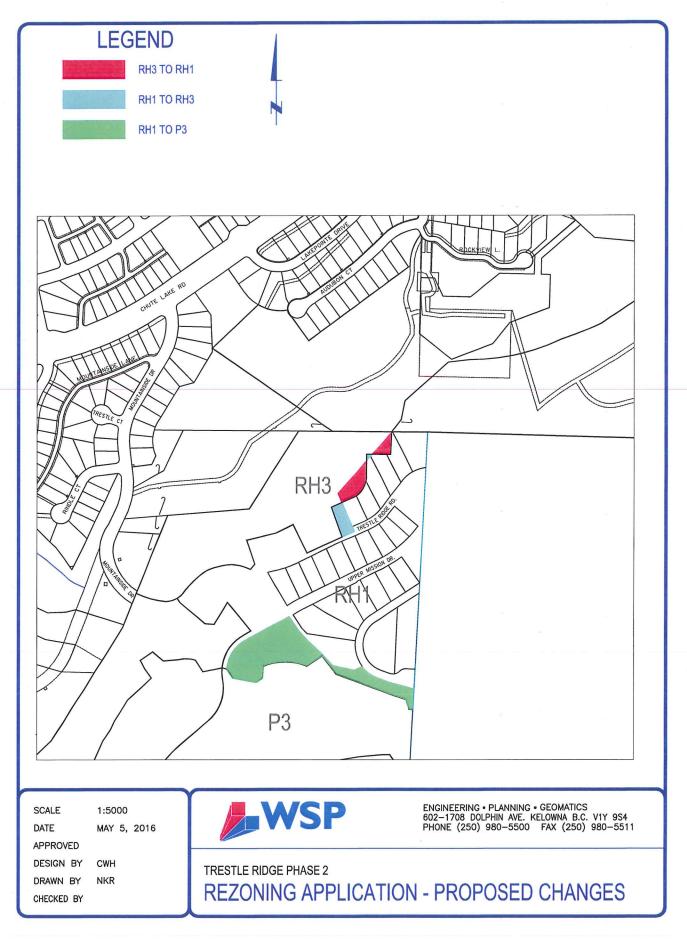
Ryan Smith, Community Planning

Attachments:

Map A Map B Subdivision Layout Development Engineering Requirements Public Consultation







## CITY OF KELOWNA

(s. 18)

## MEMORANDUM

**Date:** July 26, 2016

**File No.:** Z16-0041

To: Subdivision Approving Officer (DB)

From: Development Engineer Manager (PI)

Subject: Upper Mission Dr (E of)

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

### 1. General.

a) This rezoning application to adjust boundaries to conform to current DP & PLR Application does not compromise municipal infrastructure.

Purvez Irani, MS, P Eng., PTOE Development Engineering Manager

JF

## **Public Information and Consultation Process**

## Rezoning and OCP Amendment for Trestle Ridge Phase 2

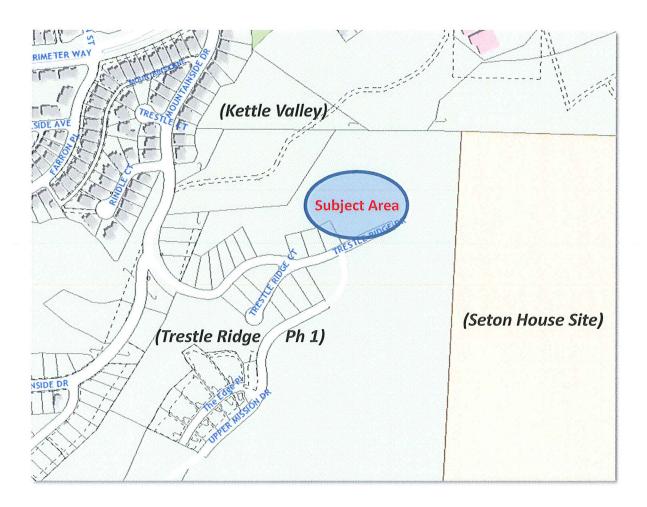
### Dear Neighbour:

Due to the success of Phase 1 of the Trestle Ridge community, a second phase is being pursed. As part of Phase 2, more detailed topographic information, planning and design has taken place which led to minor lot line refinements requiring adjustments to the current Official Community Plan Land use Plan and current Zoning.

As neighbours, Calcan Joint Ventures Ltd. would like you to be aware of these changes and our efforts to work with the City of Kelowna to obtain approval for these changes.

### Location of the proposed Changes:

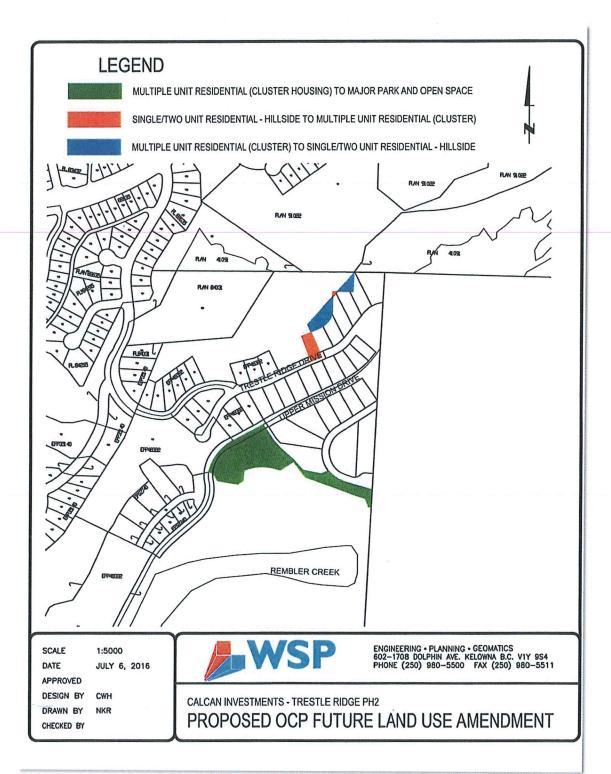
The changes relate to future lots being developed as an extension to Phase 1 in Trestle Ridge as noted on the plan below:



## **Description of OCP Changes:**

No new land use designations are proposed in the area. Changes are minor adjustments to current land use designations that justify the refined lot lines. The result is an addition to proposed park area, and a net reduction of both Single/Two Unit Residential and Multi Unit Cluster Housing.

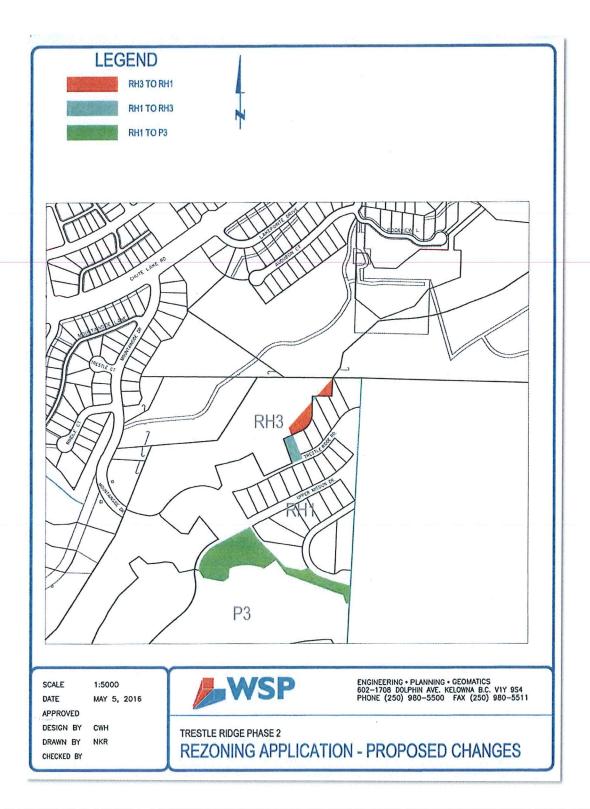
The Map below indicates the refinements proposed to the Future Generalized Land Use of the Official Community Plan:



## **Description of Zoning Changes:**

Similarly, no new zones are being introduced in the area. Changes are minor and also justify the refined lot lines. The net result is an addition to P3-Park and Open Space zone, and a net reduction of both RH1 – Hillside Large Lot Residential and RH3 - Hillside Cluster Housing zones.

The Map below indicates the refinements proposed to Zoning:



#### **For More Information:**

For additional information or to address any questions or comments you may have regarding these applications please feel free to contact the following:

Mr. David Lange, Land Manager, Calcan Joint Ventures Ltd. (250) 764-4654 <u>dave@trestleridge.ca</u>

Mr. Damien Burggraeve Deputy Approving Officer, City of Kelowna (250) 469-8473 <u>dburggraeve@kelowna.ca</u>

#### BYLAW NO. 11266

#### Official Community Plan Amendment No. OCP16-0011 -Calcan Investments Inc. (E of) Upper Mission Drive

A bylaw to amend the "Kelowna 2030 - Official Community Plan Bylaw No. 10500".

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

- 1. THAT Map 4.1 GENERALIZED FUTURE LAND USE of "Kelowna 2030 Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of a portion of North East ¼ Section 14, Township 28, SDYD, Except Plans KAP57304 and EPP48322, located on (E of) Upper Mission Drive, Kelowna, B.C., from the Multiple Unit Residential designation to Single/Two Unit Residential designation and from Single / Two Unit Residential designation to Multiple Unit Residential designation to Multiple Unit Residential designation to Major Park/Open Space (Public) designation as shown on Map "A" attached.
- 2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

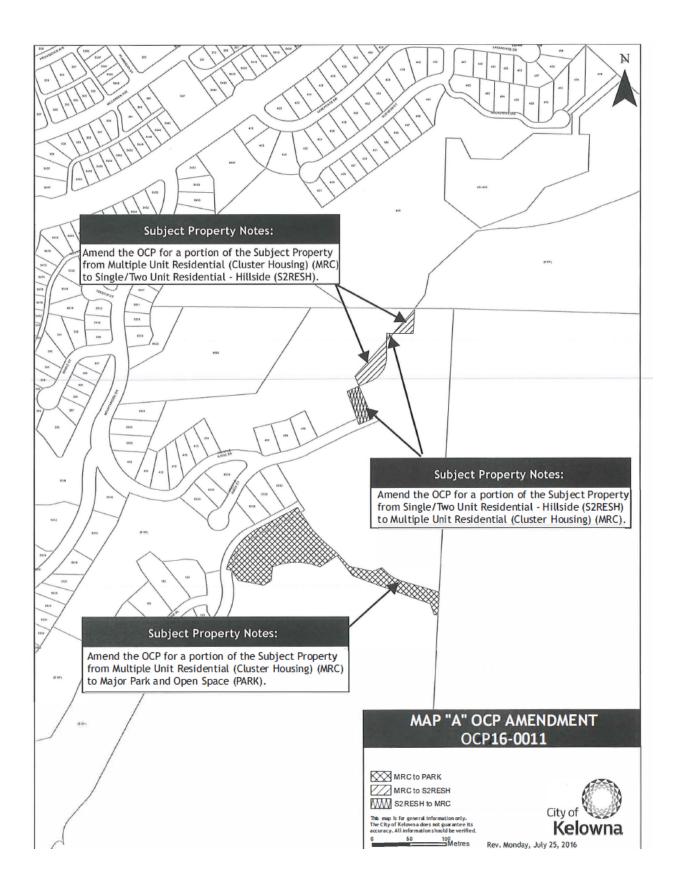
Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor



## BYLAW NO. 11267 Z16-0041 - Calcan Investments Inc., Inc. No. BC0383776 (E of) Upper Mission Drive

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 a portion of the North East <sup>1</sup>/<sub>4</sub> Section 14, Township 28, SDYD, Except Plans KAP57304 and EPP48322 located on (E of) Upper Mission Drive, Kelowna, B.C., from the RH3 Hillside Cluster Housing zone to RH1-Hillside Large Lot Housing zone and from RH1 Hillside Large Lot Housing zone to P3 Park and Open Space 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

Considered at a Public Hearing on the

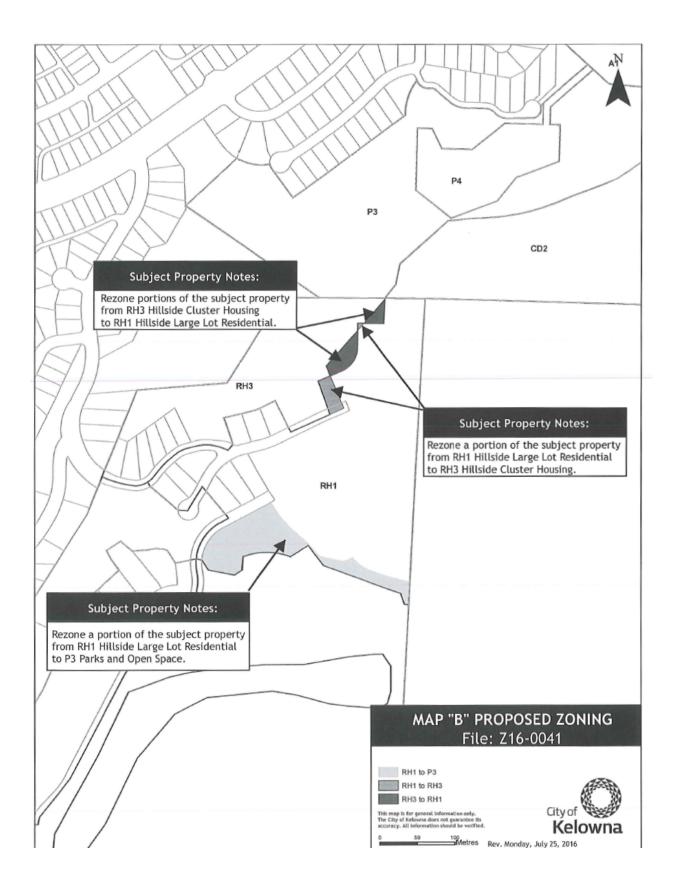
Read a second and third time by the Municipal Council this

Approved under the Transportation Act

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor



## BYLAW NO. 11132 Z15-0032 - Thorsten Tropf 285 Sadler Road

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 Lot 1, Section 26, Township 26, ODYD, Plan 8519, located on Sadler Road, Kelowna, B.C., from the RU1 Large Lot Housing zone to the RU6 Two Dwelling Housing 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 24<sup>th</sup> day of August, 2015.

Considered at a Public Hearing on the 15<sup>th</sup> day of September, 2015.

Read a second and third time by the Municipal Council this 15<sup>th</sup> day of September, 2015.

Approved under the Transportation Act 17<sup>th</sup> day of September, 2015.

\_\_\_Audrie Henry\_

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

## BYLAW NO. 11219 Z15-0056 - Bruce & Helga Morris 2970 Shayler Court

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 Lot 9, Section 29, Township 23, ODYD, Plan KAP70569 located on Shayler Court, Kelowna, B.C., from the A1 Agriculture 1 zone to the A1c Agriculture 1 with Carriage House 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 4<sup>th</sup> day of April, 2016.

Considered at a Public Hearing on the 26<sup>th</sup> day of April, 2016.

Read a second and third time by the Municipal Council this 26<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

# **Report to Council**



Date:	Aug. 3, 2016	
File:	0165-30	
То:	Council	
From:	City Manager	
Subject:	Quarterly report update - Q2 2016	
	Report Prepared by: Summer Effray, Communications Co	nsultant

#### **Recommendation:**

THAT Council receives, for information, the Quarterly report update from the City Manager, dated Aug. 3, 2016.

#### Purpose:

To provide Council with an update of the City's activities for the second quarter of 2016.

#### Background:

The attached presentation provides a brief summary of some key activities undertaken in the last quarter by the corporation.

The content of the presentation continues to evolve and staff welcomes Council's suggestions in ensuring the report is both informative and timely for our community. All contributors and contributing departments are not expected to attend the Council presentation, however if Council has specific questions that require a staff member attend the meeting, it is requested that the City Clerk be advised in advance of the meeting.

A collection of current and past quarterly report presentations can be found online.

Internal Circulation: Content provided by Divisional Directors City Manager Communications Supervisor

**Considerations not applicable to this report:** Legal/Statutory Authority: Legal/Statutory Procedural Requirements: Existing Policy: Financial/Budgetary Considerations: Personnel Implications: External Agency/Public Comments: Communications Comments: Alternate Recommendation:

Submitted by:

R.L. (Ron) Mattiussi, MCIP City Manager

Approved for inclusion:

cc: Divisional Directors



# **OUARTERLY REPORT** April to June 2016



# A WELL-RUN CITY | FINANCE

# Building on Momentum

2015 Annual Report

Gity of Kelowna



The @cityofkelowna team getting ready for our 1st @TwitterCanada town hall starting at 1pm. #Kelowna #Community



51 participants 212 incoming tweets #ImagineKelowna

scenery parks amenities the people affordable housing HOMELESSNESS growth climate change tech industry AGING POPULATION community involvement **PARTNERSHIPS** 

# A STRONG ECONOMY | YLW

# 381,530 passengers ↑4.6% since 2015

# A STRONG ECONOMY

# 201420152016O2 Building<br/>permits\$85.9 M\$117.5 M\$147.3 M

657 building permits | 415 development applications | 800 rental housing units

# A STRONG ECONOMY

Creative Spaces consultation | artsVest Chamber breakfast | Kelowna Community Theatre events

#### SPEAKERS & VIPS TOP 15 GALLERY BLOG

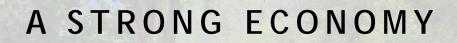


# METABRIDGE

CONNECTING TECH ENTREPRENEURS TO SILICON VALLEY

Save the date:

JUNE 8-9 2017, KELOWNA, BC





# Outdoor events | Tournaments | Sport grants



Social Development Manager 7,000 program registrations Canuck Autism Network nights Leagues + register & play

AN ACTIVE, INCLUSIVE CITY

90

# smartTRIPS.ca

AN ACTIVE, INCLUSIVE CITY

1

regionaldistrict.com

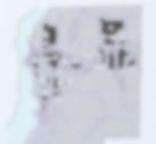
# AN ACTIVE, INCLUSIVE CITY



16 open houses 1,025 attendees 3,100 surveys completed 2,800 Facebook engagement



barrad agence descelo barrado per prio



#### Bicycle Gages.

And an other states of the state of the stat

Getowing on the Move segmentation Make Marching & Carlling





target

ALL LOCKED UP 2016 - 2019 CRIME REDUCTION elowna. Ca STRATEGY City of **Kelowna** 

POLICE



# A SAFE CITY

# fire prevention

education & awareness TRAINING & NEW EQUIPMENT recruitment complete fire *dispatch* service



# A CLEAN, HEALTHY ENVIRONMENT

The City Utility has updated its water use and drought plan to align with the changing environment, and to help maintain and preserve our water resource for generations to come.



Automatic underground irrigation systems may run between 12 a.m. (midnight) & 6 a.m. on your scheduled days Manual sprinklers can run between 6 a.m. and 10 a.m. or 7 p.m. to 12 a.m. (midnight) on your scheduled days Hand watering (or using a spring loaded nozzle) can occur at any time

# RESILIENT, WELL-MANAGED INFRASTRUCTURE

ENCOMPASS

COMPASS

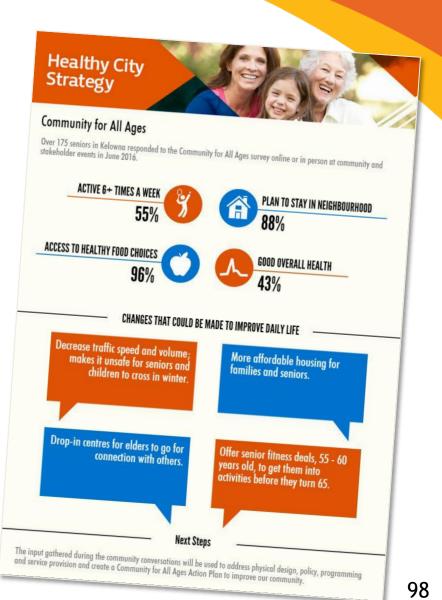
# RESILIENT, WELL-MANAGED INFRASTRUCTURE

Greenway land acquisition OK Rail Corridor fundraising Bernard laneway revitalization



# RESILIENT, WELL-MANAGED INFRASTRUCTURE

Infill Challenge Community for all ages Hospital Area Plan Agriculture Dog beaches





# City of **Kelowna**

kelowna.ca

# **Report to Council**



Date:	August 8, 2016
File:	1220-04
То:	City Manager
From:	Jim Gabriel, Division Director, Active Living & Culture
Subject:	Tourism Kelowna - MRDT Increase and Service Agreements
	Report Prepared by: S. Kochan, Cultural Services Manager

#### **Recommendation:**

THAT Council receives for information the report from the Divisional Director, Active Living & Culture dated August 8, 2016 regarding Tourism Kelowna;

AND THAT Council directs staff to prepare Service Agreements with Tourism Kelowna to be brought back to Council for approval;

AND THAT Council supports an application to increase the Municipal and Regional District Tax from two per cent to three per cent;

AND THAT Council authorizes the Division Director, Active Living & Culture, to sign the documents relating to an application to increase the Municipal and Regional District Tax from two per cent to three per cent;

AND FURTHER THAT Bylaw No. 11258 being the City of Kelowna Municipal and Regional District Tax Bylaw be forwarded for reading consideration.

#### Purpose:

To update and inform Council regarding the relationship between the City of Kelowna and Tourism Kelowna, the benefits of preparing Service Agreements, and a request from Tourism Kelowna to initiate the process to increase the accommodation tax rate from two per cent to three per cent.

#### Background:

The provincial Municipal and Regional District Tax (MRDT) is informally known as the 'hotel room tax.' Kelowna is one of many jurisdictions authorized by provincial regulation to collect MRDT on behalf of destination marketing organizations providing revenues for tourism marketing, programs and projects.

Kelowna's current MRDT rate is 2%. Rates are established for a five-year term, which, in Kelowna, will expire December 31, 2018.

The MRDT program is jointly administered by the Ministry of Finance, the Ministry of Jobs, Tourism and Skills Training and Destination BC.

The taxes are collected by the accommodation sector (some types of accommodations are excluded) and remitted to the Province. The Province, after deduction of administration fees, remits the balance to the City of Kelowna as designated recipient. The City, in turn, pays all of the amount received from the Province to Tourism Kelowna, to whom the City has delegated the authority to administer the expenditure of the tax revenue for the prescribed purposes.

As designated recipient, the City is fully responsible for compliance with all MRDT program requirements. Annual requirements include a performance report, a financial report and a one-year tactical plan. Upon application for renewal or to increase the rate to three per cent, a five-year strategic business plan is also required. Templates for each of these reports are provided by the Province. Tourism Kelowna prepares the reports and provides them to the City's Finance Department for review and sign-off.

An application for a rate increase can be submitted prior to the renewal date of December 31, 2018. Tourism Kelowna has requested the City's support to submit an application to raise the MRDT rate to three per cent (the maximum rate) with an effective date of April 1, 2017.

The procedural requirements for this application are described in the 'Legal/Statutory Procedural Requirements' section below, and a proposed timeline is provided in Schedule A.

Staff are in support of the MRDT increase application, and recognize the continuing excellent work being done by Tourism Kelowna to increase tourism visitation and expenditure. The additional MRDT revenue will allow Tourism Kelowna to:

- Increase marketing in Ontario;
- Promote Kelowna in markets with high potential (such as the Western U.S. and Eastern Canada) which are beyond the reach of current resources; and
- Increase Kelowna's exposure in overseas markets through new investment with provincial and national tourism marketing organizations.

More information about how an increased MRDT will enhance destination marketing is provided in Tourism Kelowna's application package, attached as Schedule B.

Preparation of a new MRDT application, and the strategic planning that supports it, is an occasion to reflect on the long-standing relationship between the City of Kelowna and Tourism Kelowna, which includes provision by the City of both MRDT processing and an annual grant of \$344,430. While much growth and success can be acknowledged, there are also some items which call for consideration, including:

- How are City of Kelowna priorities and objectives reflected in Tourism Kelowna's oneyear tactical plans and five-year strategic business plans?
- What types of alignment, deliverables and reporting are associated with the City's annual funding to Tourism Kelowna?

- What does the City's Finance Department require to fulfill its due diligence responsibilities in processing MRDT revenues?

Service Agreements between the City of Kelowna and Tourism Kelowna are recommended by staff to provide some clarity regarding the questions posed above. Staff propose to prepare two separate agreements:

- 1) In association with the application to increase the MRDT, an agreement containing provisions relating to the tracking of MRDT revenues and expenditures in Tourism Kelowna's budget and financial reporting, and providing specifications for audit processes which meet municipal standards; and
- 2) An agreement pertaining to the City's annual funding to Tourism Kelowna which will clarify the liaison function between the City and Tourism Kelowna, and outline how civic priorities and objectives, including community benefit, can be achieved through the City's support.

Service Agreements are not part of the MRDT application or collection process but are recommended by the Province and Destination BC as a best practice. Many other local governments in British Columbia have these agreements in place with destination marketing organizations and these precedents will inform staff in preparation of the Tourism Kelowna agreement.

Preparation of the agreements will occur in parallel with the application to increase the MRDT.

Staff will provide a follow-up report to Council with information about the terms and conditions of both Service Agreements later in 2016.

#### Internal Circulation:

Jodie Foster, Communications Supervisor Genelle Davidson, Financial Services Director Stephen Fleming, City Clerk Sam Samaddar, Airport Director

#### Legal/Statutory Authority:

The Provincial Sales Tax Act (and various regulations) is the enabling legislation for MRDT.

City of Kelowna Hotel Tax Bylaw 10853 governs the current two per cent accommodation tax.

A new City of Kelowna bylaw will be required to increase the rate from two to three per cent.

#### Legal/Statutory Procedural Requirements:

The procedural requirements to increase the tax rate from two per cent to three per cent are:

- Kelowna's current MRDT rate of 2% is in effect until December 31, 2018, which is the deadline for renewal of the tax for another five-year term;
- An application for a rate increase to 3% can be made prior to the renewal deadline, but must be submitted at least nine months in advance of the desired effective date of the tax. Tourism Kelowna has indicated a preferred effective date of April 1, 2017;
- Submission of a documentation package including an application, various authorization/confirmation forms, evidence of consultation with tourism stakeholders

and the Regional District, a five-year strategic Business Plan with first year tactical details, and an accommodation directory. These documents have been prepared by Tourism Kelowna and are being reviewed by staff;

- The application package must also include a City of Kelowna bylaw requesting the Province to levy the tax on its behalf, and specifying the tax rate, the geographic area, the purpose for the funds and the desired effective date. As of the effective date, this Bylaw would replace the current Bylaw 10853;
- Applications are approved by Cabinet, followed by an amendment to the *Designated Accommodation Area Tax Regulation;*
- Recipients levying the 3% tax rate are required to contribute to a new provincial Tourism Events Program which, through an application process, will provide support to world-class events which enhance the volume of visitors to British Columbia and increase global recognition for the province. The mandatory contribution is equal to 0.2 per cent of the additional one percent; therefore new MRDT revenue calculations are based on a net rate of 2.8%;
- Unless specifically authorized by regulation, MRDT revenues cannot be used for capital projects, such as construction of a new Visitor Centre. The application does not include any request for such authorization, and MRDT revenues are to be used only for destination marketing, programs and projects.

A proposed timeline to fulfill the procedural requirements is attached as Schedule A.

#### Financial/Budgetary Considerations:

The City of Kelowna provides annual funding of \$344,430 to Tourism Kelowna for visitor services, marketing and sports tourism. This funding is separate from MRDT revenues.

According to Destination BC, which administers the MRDT program, 'MRDT revenue must augment current funding and cannot be used to replace existing sources of tourism funding.' Accordingly, Destination BC has advised that the City of Kelowna may adjust, but not eliminate, current funding provided to Tourism Kelowna in conjunction with consideration of an increase in the MRDT to 3 per cent. Staff are not seeking any adjustments at this time, particularly if a Service Agreement can be put in place.

In its first full year of implementation (2017/18) an increased MRDT is expected to generate over \$900,000 in additional revenue for destination marketing, bringing the total projected MRDT revenue to almost \$3,000,000. The chart below provides a comparative snapshot of the current and projected revenues:

Tourism Kelowna Fiscal Year	MRDT Rate	MRDT Revenue	Increase to MRDT over 3 years
Sept. 1, 2015 - Aug. 30, 2016 (Current)	12 mos @ 2%	\$1,852,460.00	
Sept. 1, 2016 - Aug. 30, 2017	8 mos @ 2%; 4 mos @ 2.8%	\$2,084,000.00	\$231,540.00
Sept. 1, 2017 - Aug. 30, 2018	12 mos@ 2.8%	\$2,998,452.00	\$914,452.00

#### **Considerations not applicable to this report:** Existing Policy

External Agency/Public Comments

Alternate Recommendation Personnel Implications Communications Comments

Submitted by: J. Gabriel, Division Director, Active Living & Culture

Attachments: Schedule A - Proposed Timeline Schedule B - Tourism Kelowna Application Package

cc: Jodie Foster, Communications Supervisor Genelle Davidson, Financial Services Director Stephen Fleming, City Clerk Sam Samaddar, Airport Director Nancy Cameron, CEO, Tourism Kelowna

PROPOSED TIMELINE - APPLICATION PROCESS FOR 3% MRDT						
ITEM	DUE DATE	STATUS	NOTES			
Secure accommodation support	Q1 2016	complete	Tourism Kelowna			
Stakeholder survey	April 2016	complete	Tourism Kelowna			
Prepare MRDT application	Aug. 3, 2016	In progress	Tourism Kelowna portion complete; City review underway and to be completed in preparation for August 8 Council report			
Council report re: Bylaw	Aug. 8, 2016	In progress	First three readings			
Regional District letter of support	Aug. 22, 2016	In progress				
Council - Final Bylaw approval	Aug. 29, 2016	In progress	Final approval			
Submit application to Destination BC	August 2016					
Processing of application	May take up to 9 months					
Effective date for collection of 3%	April 1, 2017					

# Application to Increase the Municipal & Regional District Tax from 2% to 3%

Date: August 8, 2016

Municipal and Regional District Tax Application Form – City to insert	4
Municipal and Regional District Tax (MRDT) Overview	5
DESIGNATED RECIPIENT SERVICE PROVIDER	
About the Service Provider: Tourism Kelowna Society	5
OUR MISSION ACCOUNTABILITY AND CONTROL 2016 TOURISM KEOWNA BOARD OF DIRECTORS 2016 TOURISM KELOWNA STAFF	
Five-year Strategic Plan, 2015-2019	3
Funding Sources: 2016-2017 Budget Including Incremental Revenue	Э
Evidence of Consultation with Regional District – City to insert1	0
Evidence of Authority: City of Kelowna MRDT Bylaw – City to insert	1
Certificate of Incorporation and Bylaws for Service Provider1	2
MRDT Administration: 2016 – 17 Sales and Marketing Plan1	3
Consultation with Tourism Industry Stakeholders1	4
CONSULTATION PROCESS FOR MRDT RENEWALS/CHANGES STAKEHOLDER SATISFACTION	
Accommodation Directory1	5
Accommodation Sector Support of MRDT1	6
Consultation with Destination British Columbia1	7
Third Party Authorization Form – City to insert1	8
Disclosure of Information Authorization Form – City to insert1	9
Tourism Events Program Sponsorship Form – City to insert2	20

The MRDT program has been made possible with enabling provincial legislation. In 2015 the maximum taxation level was changed from 2% to 3%.

The MRDT program is jointly administered by the Ministry of Finance, the Ministry of Jobs, Tourism and Skills Training, and Destination British Columbia. This program is intended to increase local tourism revenue, visitation, and economic benefits and should be supported by both local governments and tourism industry stakeholders. The local impacts contribute to the growth of BC revenues, visitation, and jobs, and amplify BC's tourism marketing efforts in an increasingly competitive marketplace.

Funds from the MRDT program should augment current funding and cannot be used to replace existing sources of tourism funding in a community.

The MRDT has been in place within the City of Kelowna since January 1, 2004.

#### **DESIGNATED RECIPIENT**

The City of Kelowna is the Designated Recipient for the designated accommodation area of the Kelowna municipality. The Designated Recipient may choose to either administer the MRDT program directly or delegate the administration to a service provider such as a destination marketing organization.

#### SERVICE PROVIDER

Since Kelowna's implementation of the MRDT program in 2004, the Tourism Kelowna Society has been the City of Kelowna's service provider for its administration.

Tourism Kelowna is the destination marketing engine for Kelowna and the Central Okanagan region's tourism industry. Our program of work is built to stimulate inbound travel to increase the economic benefit for area tourism businesses, our city, and surrounding communities. As a Destination Marketing Organization (DMO) we are dedicated to providing leadership and coordination in promoting and marketing Kelowna's amenities and tourism businesses, resulting in increased overnight visitation and revenues. Tourism Kelowna is a not-for-profit, industry-driven Society governed by an elected Board of Directors representing over 320 tourism related businesses in Kelowna and area.

#### **OUR MISSION**

### To generate overnight visitor demand to economically benefit Kelowna and its neighbouring communities

#### ACCOUNTABILITY AND CONTROL

Transparency, accountability, and the development of adequate controls are required for organizations entrusted with the investment of the MRDT. Tourism Kelowna has procedures and controls in place to address these requirements as itemized below:

- The Tourism Kelowna Society Board of Directors has complete responsibility for the organization including the approval of a 5-year strategic plan, annual budget, annual sales & marketing plan, and quarterly performance reporting. The Board consists of a maximum of 18 directors, 6 of whom are appointed with 12 being elected by the tourism businesses located within the Central Okanagan.
- A Finance Committee consisting of the Treasurer, Directors, CEO, and Financial Administrator (CPA certified) review detailed financial statements monthly. The Board reviews and approves these quarterly, and the voting stakeholders of the society review them annually within the Annual General Meeting process. These documents are available to all stakeholders and funders at any time.
- Tourism Kelowna receives a full audit annually. (fiscal is September 1 August 31)
- Tourism Kelowna provides an annual update to City Council and submits its financial statements to the City of Kelowna. These are compiled into a report submitted by the City, to the Province, at the time of the municipal audit.
- Beginning in April, 2016 the Province of BC now requires that Annual Performance Management and Reporting is provided by the Designated Recipient (City of Kelowna). As the service provider, Tourism Kelowna works with the City to provide the report requirements.
- Every 5 years, the accommodation industry decides whether to retain the tax. This provides the accommodation sector with the assurance that Tourism Kelowna is aligned with industry objectives.
- Tourism Kelowna meets or exceeds operational benchmarks for Canadian DMOs as researched through Destination Marketing Association Canada's annual benchmarking study.
- Tourism Kelowna is accredited through Destination Marketing Association International.

#### 2016 TOURISM KELOWNA BOARD OF DIRECTORS

Grand Okanagan la Hotel & Conference Centre oints by Sheraton Kelowna na Hotel Motel Association estern Plus Kelowna e Hotel Kelowna D Resort Waterfront Hotel oma Lakeshore Resort gan Golf Club nite Ski Resort Gate Winery tly Kelowna Tours gan Lavender & Herb Farm Studio Dinner Theatre na International Airport Kelowna of Lake Country

#### 2016 TOURISM KELOWNA STAFF

President and CEO: Financial Administrator: Executive and Administrative Assistant: Director of Marketing and Communication: Marketing Manager: Marketing Co-ordinator: Communications Co-ordinator: Director of Sales:	Nanc Laure Cher Chris Shau Tyler Alexa Jenn
0	
Sports and Events Sales Manager:	Harv
Sales Co-ordinator:	Julia
Visitor Sales and Services Manager:	Chris
Visitor Sales and Services Co-ordinator:	Ashle

Nancy Cameron Lauren Lander Cheryl van den Bold Chris Shauf Shauna Merritt Tyler Magas Alexa Creelman Jennifer Horsnell Harvey Hubball Julia Garner Chris Lewis Ashley McGowan

#### Five-year Strategic Plan, 2015 - 2019

This 5-year Strategic Plan is a guiding document for the effective destination leadership and marketing efforts of Tourism Kelowna. It provides clear focus, direction, and a roadmap for impactful resource allocations.

The Board of Directors utilized not only input from staff and a highly experienced tourism development facilitator but they also paid close attention to specific consumer, stakeholder, and resident research that was conducted to inform their Strategic Plan discussions and Tourism Kelowna's brand marketing activities.

Performance targets are in place to allow for the measurement of progress over the 5-year period that will culminate in reaching our objective of having 2.5 million visitors annually by 2019.

This plan is reviewed annually by the Board of Directors. It is revised as required by market conditions and emerging opportunities. The tourism landscape changes quickly and this diligence ensures that Tourism Kelowna is responsive to these changes and invests its funds effectively.

Tourism Kelowna recognizes the immense tourism growth potential that the Kelowna area has and so included 'to secure funding to realize growth' as one of its Strategic Plan goals. The ability to increase the MRDT rate had not been announced at the time this plan was developed and approved however with its proposed implementation within the City of Kelowna, Tourism Kelowna will be in a position to resource market development and expedite this growth.

This will occur with expanded marketing in Saskatchewan, Manitoba, Ontario and Eastern Canada, and new investment in Washington State. We will also increase Kelowna's exposure in overseas and US markets through new partner investments with our provincial and national tourism marketing organizations.

The Board of Directors approved the 2015 – 2019 Strategic Plan at their February 25, 2015 Board meeting.

Please note that this plan was developed and implemented prior to the Municipal and Regional District Tax Program Requirements were released in the fall of 2015 so not all of the required sections are included in the document attached. All required sections are however covered within the **About the Service Provider** *section* on page 5, in the **Annual Sales and Marketing Plan** section on page 12, and in the **2016-17 Approved Budget** section on page 8.

PDF's included below:

1. 2015 - 2019 Strategic Plan



### Funding Sources: 2016-17 Budget Including Incremental Revenue

The Tourism Kelowna Board of Directors approved the 2016-17 budget on June 22, 2016. Two assumptions were made for the development of this budget:

- 1. MRDT will increase from 2% to 3% beginning April 1, 2017. This will begin to flow to Tourism Kelowna June 2017.
- 2. The construction of a new visitor centre will be financed within our current levels of revenue (2016 funding levels).

Please note that our fiscal year is September 1 – August 31 and so for the purposes of this application all budget and sales and marketing plan documents are for this period. The required annual reports will be provided for a calendar year period as required.

PDF's included below:

- 1. 2016-17 Budget Tourism Kelowna (TK) format
- 2016-17 Budget Prov BC Format requested in Section 3 of the Municipal and Regional District Tax Program Requirements





Evidence of Consultation with Regional District

Space being held for copy of RDCO letter of support – City to secure

Evidence of Authority: City of Kelowna MRDT Bylaw

Space being held for copy of approved bylaw - City to provide

### Certificate of Incorporation and Bylaws for Service Provider

PDF versions of the Tourism Kelowna Society's Certificate of Incorporation and Bylaws included below:





### MRDT Administration: 2016 - 17 Sales and Marketing Plan

The Board approved 2016-17 Sales and Marketing Plan (One-Year Tactical Plan), Project Plan, Output Measures, and Outcome Measures have been included in this section to provide detailed information about the activities that Tourism Kelowna will undertake to achieve its annual and 5-year Strategic Plan objectives.

The 2016-17 Sales and Marketing Plan was approved by the Tourism Kelowna Board of Directors on June 22, 2016.

PDF's included below:

- 1. 2016-17 Sales and Marketing Plan (One-Year Tactical Plan)
- 2. Project Plan Visitor Services
- 3. Project Plan Marketing Communications
- 4. Project Plan Meetings Conventions
- 5. Output Measures
- 6. Outcome Measures





Project Plan -Visitor Services.pdf



Project Plan -Marketing Commur



Meetings Convention





### CONSULTATION PROCESS FOR MRDT RENEWALS/CHANGES:

When the opportunity to increase the MRDT rate from 2% to 3% was made available, the Tourism Kelowna Board of Directors instructed the CEO to determine whether there was sufficient support amongst the accommodation sector to apply for this increase.

The CEO discussed the opportunity with the Kelowna Hotel Motel Association members at their November 2015 meeting. This was followed by individual meetings with each MRDT collecting accommodation property owner or operator. Meeting one-on-one allows for frank conversation about their perspective on this funding mechanism, the overall tourism industry, and Tourism Kelowna's role within it. At these meetings the operator either confirmed or declined their support for the MRDT increase.

#### **STAKEHOLDER SATISFACTION:**

Tourism Kelowna conducts regular surveys of all of its stakeholders to gage satisfaction and glean important information for our continuous improvement efforts. The stakeholders surveyed include attractions, activities, services, associations, and accommodations. The most recent survey was conducted in April 2016 and questions related to stakeholder satisfaction with Tourism Kelowna and included in the PDF below.



See attached pdf for the City of Kelowna Master Accommodation Directory:



### Accommodation Sector Support of MRDT

Strong support to increase the MRDT from 2% to 3% has been secured from the Kelowna accommodation sector as shown in this chart:

PROPERTY SUMMARY:	
In Support	65.5%
UNITS SUMMARY:	
In Support	84.4%

Included below are the following:

- 1. MRDT Approval List
- 2. Listing of Signatures





#### Consultation with Destination British Columbia

Tourism Kelowna relies on Destination British Columbia (DBC) for its exposure in international markets. Within domestic and near-in US markets Tourism Kelowna participates in DBC programs that leverage Kelowna's exposure and attach Kelowna to the highly recognized and revered British Columbia brand. These programs currently include travel media hosting, travel trade hosting, golf sector partnered marketing, social media Instameets, and the Visitor Centre Network program.

Tourism Kelowna fully understands the activities that DBC undertakes and co-ordinates its own work to ensure that it is complementary and in alignment to the efforts of DBC.

Through regular communication with the DBC and TOTA, Tourism Kelowna is able to employ highly targeted marketing strategies, focused to those markets that are served by our direct city-pair air routes and our Western Canadian road access.

We believe that with the combination of increased resources and strong industry partnerships Tourism Kelowna will have the tools it needs to grow domestic, trans-border and international travel to Kelowna.

Third Party Authorization Form

Disclosure of Information Authorization Form

Tourism Events Program Sponsorship Form



# TOURISM KELOWNA

City Council - August 8, 2016





### OVERVIEW

- Introduction to MRDT (Accommodation Tax)
- Increasing the MRDT rate to 3%
- Service Agreements with Tourism Kelowna



### MRDT - WHAT IS IT?

- Municipal & Regional District Tax
- Raises revenue for 'tourism marketing, programs and projects'
- As of 2015, maximum tax may be 3% of the price of accommodation in a designated accommodation area
- Kelowna's current rate is 2% until Dec.
   31, 2018 (renewal)



## MRDT - LEGISLATIVE FRAMEWORK

- Section 123 Provincial Sales Tax Act
- Designated Accommodation Area Tax Regulation
- City of Kelowna Hotel Tax Bylaw 10853 (for 2014-2018) – replaces previous Bylaw 10015 (2009-2013).

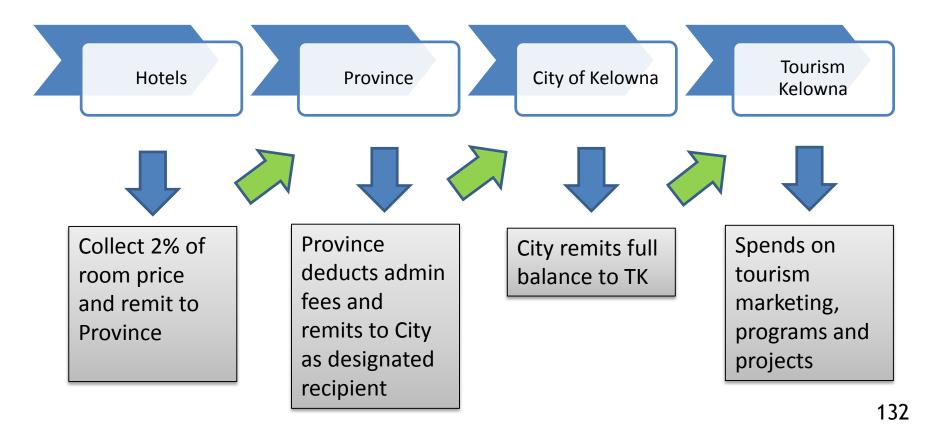


## MRDT - ADMINISTRATION

- City is designated recipient
- Renewal application every 5 years
- City delegates admin/spending to TK
- City accountable for reporting and compliance as designated recipient



### MRDT PROCESSING





### 2% MRDT - REVENUES

From City audit: 2013: \$1,470,964 2014: \$1,603,775 2015: \$1,797,943



### MRDT - EXPENDITURES

- Prescribed purposes are 'tourism marketing, programs and projects' and may include related admin costs
- Other purposes can be authorized by regulation with Provincial approval: i.e. capital projects (Richmond, Vancouver, Sun Peaks), sport hosting (Richmond, Nanaimo, Vernon)
- Tourism industry support required for additional purposes



## MRDT - REPORTING REQUIREMENTS

City as Designated Recipient is accountable; reports are prepared by Tourism Kelowna.

- Annual Financial & Performance Reports
- One-Year Tactical Plan
- Five-Year Strategic Business Plan

MRDT reporting must meet City of Kelowna audit standards.



### MRDT - RATE INCREASE TO 3%

- Enhanced reporting requirements
- Mandatory contribution to provincial Tourism Events Program (0.2% of additional 1% to support provincially significant tourism events)
- Net effective revenue return is 2.8%



### MRDT REVENUE COMPARISON

### 2% rate

From City audit: 2013: \$1,470,964 2014: \$1,603,775 2015: \$1,797,943

### 3% rate

By full implementation in 2017/18 (projection):

\$2,998,452.00 (calculated at net return of 2.8%)



HOW ADDITIONAL MRDT WILL BE SPENT

- Increased marketing in Ontario
- Reaching new CDN and US markets with high potential
- Additional investment in provincial and national marketing programs which reach overseas markets



### IMPACT OF INCREASED MRDT





## SERVICE AGREEMENTS

- Recommended by province
- Many BC communities have them
- Two separate agreements:
  - 1) standards for financial reporting of MRDT
  - 2) deliverables/reporting re: City's annual funding of \$344,430.



### TIMELINE

# Application Aug 2016

## Service Agreements

# 3% rate Apr 1, 2017





### **CITY OF KELOWNA**

### BYLAW NO. 11258

### City of Kelowna Municipal and Regional District Tax Bylaw

A Bylaw for the renewal of the City of Kelowna Municipal and Regional District Tax Bylaw under the provisions of the Provincial Sales Tax Act

WHEREAS the Council of the City of Kelowna wishes to raise revenue for the purposes of financing tourism development programs;

AND WHEREAS under section 123(1) of the Provincial Sales Tax Act, a municipality may request by bylaw, that the Lieutenant Governor in Council make a regulation providing for an additional tax levy, not exceeding three (3) percent on sales of accommodation within the municipality;

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

- 1. The Lieutenant Governor in Council is hereby requested to make a regulation under section 240(1)(c) of the Provincial Sales Tax Act declaring that effective April 1, 2017, section 123(1) of the said Act applies in respect of accommodation purchased within the City of Kelowna.
- 2. The tax to be imposed under the provisions of the regulation is requested to be three (3) percent of the purchase price of accommodation.
- 3. The funds paid to the City of Kelowna under the provisions of the regulation shall be applied to destination marketing programs that are developed and administered by Tourism Kelowna and reviewed by Council on an annual basis.
- 4. This bylaw may be cited for all purposes as "City of Kelowna Municipal and Regional District Tax Bylaw No. 11258".
- 5. The City of Kelowna Additional Hotel Room Tax Bylaw No. 10853, and all amendments thereto, are hereby repealed.
- 6. This bylaw shall come into full force and effect upon the date of adoption.

Read a first, second and third time by the Municipal Council this 8<sup>th</sup> August, 2016.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

#### **REPORT TO COUNCIL** City of Kelowna Date: August 8, 2016 RIM No. 0505-88 To: **City Manager** From: Community Planning Department (AC) The Provincial Rental Application: RTE16-0002 **Owner:** Housing Corporation (PRHC) The Society of Housing Address: 678 Richter Street Applicant: **Opportunities and Progressive Employment** Subject: Revitalization Tax Exemption

#### 1.0 Recommendation

THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with The Society of Housing Opportunities and Progressive Employment for Lot B, District Lot 9, ODYD, Plan EPP39552, located on 678 Richter Street, Kelowna, BC, in the form attached to the report from Community Planning dated August 8, 2016;

AND THAT the Mayor and City Clerk be authorized to execute the Revitalization Tax Exemption Agreement.

#### 2.0 Purpose

To enter into a 10 year Revitalization Tax Exemption Agreement with The Society of Housing Opportunities and Progressive Employment in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

#### 3.0 Background

The subject property is designated as MRL - Multiple Unit Residential (Low Density) and MRM - Multiple Unit Residential (Medium Density) in the Official Community Plan (OCP) and is zoned RM3 - Low Density Multiple Housing and RM5 - Medium Density Multiple Housing. The Building Permit was submitted on June 9, 2014 and was issued by the City. Occupancy for the subject property occurred December 21, 2015. In addition, the Development Permit and Development Variance Permit for the 50 apartment rentals and 20 rental townhomes was approved July 29, 2014 by Council under DP13-0048/DVP13-0049.

The project is in the Purpose-Built Rental Housing Projects category as described by the Revitalization Tax Exemption Program Bylaw No.9561. In this category, projects will be considered for a tax incentive as long:

1. The vacancy rate is at or below 3%

- 2. The subject property has a Housing Agreement (for up to 10 years)
- 3. Are in compliance with the OCP Future Land Use designation as at May 30, 2011.

Over the last few years' rental housing has been in great demand. According to CMHC at the end of 2015 the total vacancy rate in the Kelowna CMA was 0.7% compared to 1.0% the year prior. Therefore, the vacancy rate requirement is met. The Housing Agreement (for up to 10 years) are met and was approved by Council on April 25, 2016. Lastly, the subject property is in compliance with the OCP Future Land Use designation.

With all requirements met the property is qualified to receive 100% of the Revitalization Amount on the parcel. The exemption will be valid for the tax years 2017-2026.

### 4.0 Internal Circulation:

Revenue Manager, Financial Services

### 5.0 Existing Policy:

Revitalization Tax Exemption Program Bylaw No. 9561

### 6.0 Application Chronology:

Date of Application Received: January 26, 2016

### Report prepared by:

Adam ଝ	Cseke,	Planner	Jenna Ratzlaff, Planner
Approv	ved for In	clusion:	Terry Barton, Urban Planning Manager

### Attachments:

Draft Revitalization Tax Exemption Agreement

Cc: Lynn Walter and Matt Friesen Revenue Branch

BL10566, BL10674 amended SCHEDULE "B" and BL10974 replaced SCHEDULE "B":

#### SCHEDULE "B" Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the 21 day of January, 2016 is

### **BETWEEN:**

The Provincial Rental Housing Corporation (PRHC) Suite #1701 - 4555 Kingsway Burnaby, BC V5H 4V8 BC 0052129

The Society of Housing Opportunities and Progressive Employment #101 - 2055Benvoulin Court, Kelowna, BC V1W 2C7 (S-16858)

(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 678 Richter Street and 600 Block of Cambridge and Central Avenues legally described as

Lots 1,2,3,4,13,14, DL9, ODYD, Plan 4317 Lot A, DL9, ODYD, Plan 13927 Lots 1,2,3,4,5,6, DL9, ODYD, Plan 7822 (the "Parcel");

After Consolidation: Lot B, Plan EPP39552, DL Lot 9, ODYD

- 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 50 purpose built rental apartments
- b. Provide 20 purpose built rental townhomes

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** - Refers to the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the property resulting from the construction or alterations as outlined in section 1 of this agreement;

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 this agreement.

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 obtain a building permit from the City for the Project on or before December 31, 2014;

b. 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" and the Project must be officially opened for use as rental housing (the "Exempt Use") and for no other use, by no later than July 15, 2016;

c. The Owner must submit a copy of the Occupancy Permit and Revitalization Tax Exemption Agreement to the City of Kelowna's Revenue Branch before the City will issue the Tax Exemption Certificate.

d. The completed Project must substantially satisfy the performance criteria set out in Appendix "B" hereto, as determined by the City's Urban Planning Manager or designate, in their sole discretion, acting reasonably.

6. Calculation of Calculation of Revitalization Tax Exemption - the amount of the Tax Exemption shall be equal to:

a) 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 the taxation years 2017 to 2026, inclusive.

8. {deleted}

9. **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.

10. Effect of Stratification - if the Owner stratifies the Parcel or the Project 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, where a Housing Agreement exists in relation to the Parcel or the Project which limits ability to stratify, the Housing Agreement is still complied with.

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.

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, BC V1Y 1J4

Attention: Lynn Walter Fax: 250-862-3391

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

The Society of Housing opportunities and progressive Employment, #101 - 2055 Benvoulin Court, Kelowna, BC V1W 2C7

Attention: Mr. Ken Zeitner, C.F.O.

#### Fax: 250-868-2399

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 enure 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 The Society of Housing Opportunities and Progressive Employment by its Authorized

signa torries Simla, President Na ff Name: Ken Zeitner, Chief Financial Off

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

### Schedule "C"

#### Tax Exemption Certificate

In accordance with the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference day 21 day of January, 2016 (the "Agreement") entered into between the City of Kelowna (the "City") and The Society of Housing Opportunities and Progressive Employment and the Provincial Rental Housing Corporation (the "Owner"), the registered owner(s) of:

Prior to consolidation:

Lots 1,2,3,4,13,14, DL9, ODYD, Plan 4317 Lot A, DL9, ODYD, Plan 13927 Lots 1,2,3,4,5,6, DL9, ODYD, Plan 7822

#### After Consolidation:

Lot B, Plan EPP39552, DL Lot 9, ODYD (the "Parcel"):

This certificate certifies that the Parcel is subject to a Revitalization Tax Exemption, for each of the taxation years 2017-2026 inclusive, equal to:

1. Purpose-Built Rental Housing Project, 100% of the Revitalization Amount attributed to Building Permit No. BP 48870, BP 48872, BP 48873, BP 48874, BP 49182 between 2013 (the calendar year before the commencement of construction of the project) and 2017 (the calendar year in which the Revitalization Tax Exemption Certificate is issued).

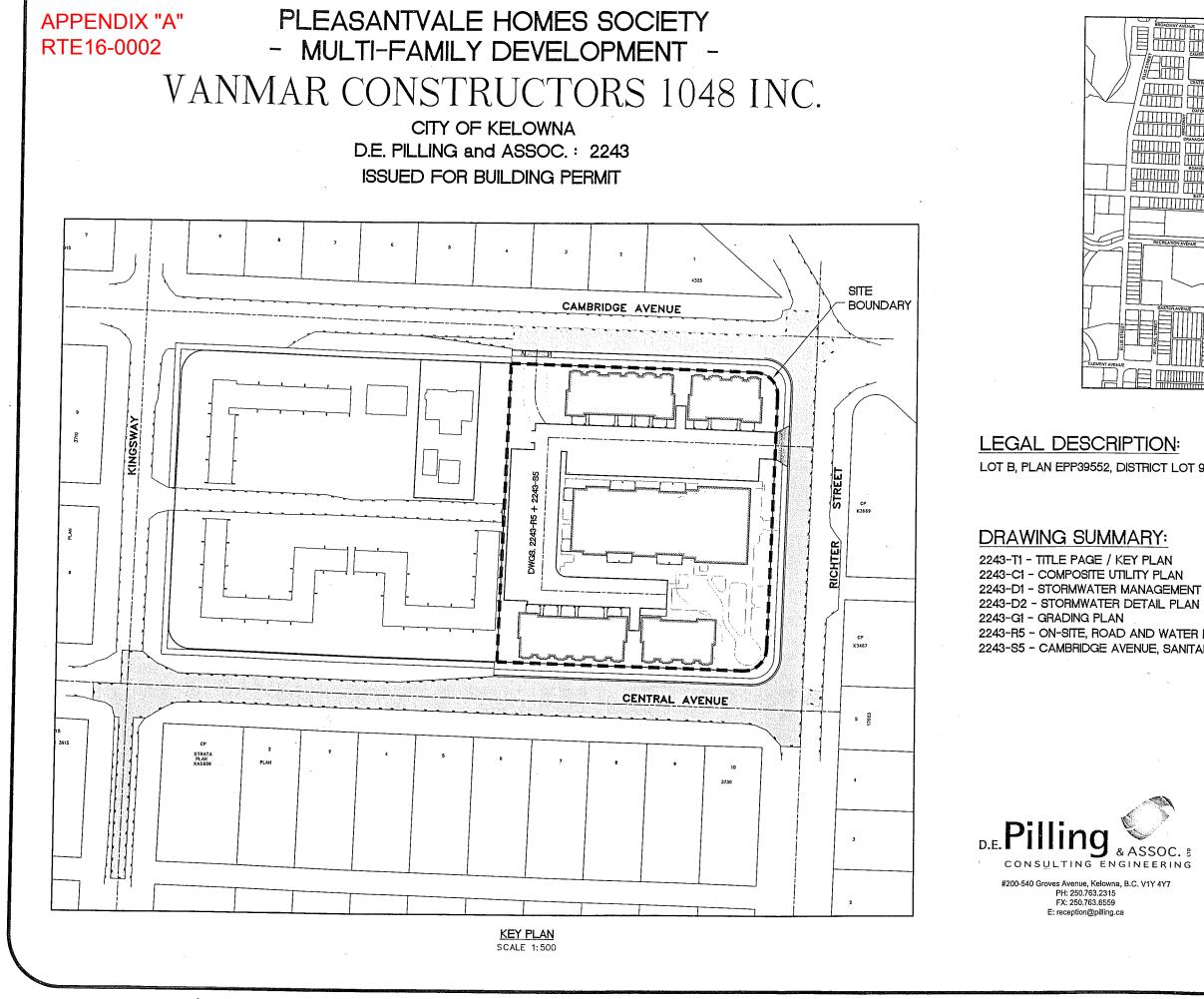
Any construction of a new improvement or alteration of an existing improvement, on Parcel described above, undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration;

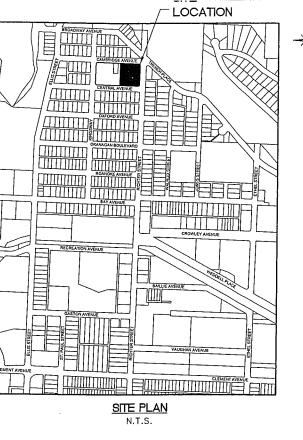
The maximum Revitalization Tax Exemption authorized must not exceed the increase in the assessed value of improvements on the property resulting from the construction or alteration attributed to Building Perm No: BP 48870, BP 48872, BP 48873, BP 48874, BP 49182, between 2013 (the calendar year before the commencement of construction of the project) and 2017 (the calendar year in which the Revitalization Tax Exemption Certificate is issued);

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. The Revitalization Tax Exemption is provided under the following conditions:

- 1. The Owner does not breach any term condition or provision of, and performs all obligation set out in, the Agreement and the Bylaw;
- 2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
- 3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
- 4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued;

If any of these conditions are not met then the Council of the City of Kelowna may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, shall remit to the City an amount equal to the value of the exemption received after the date of the cancellation of the certificate.







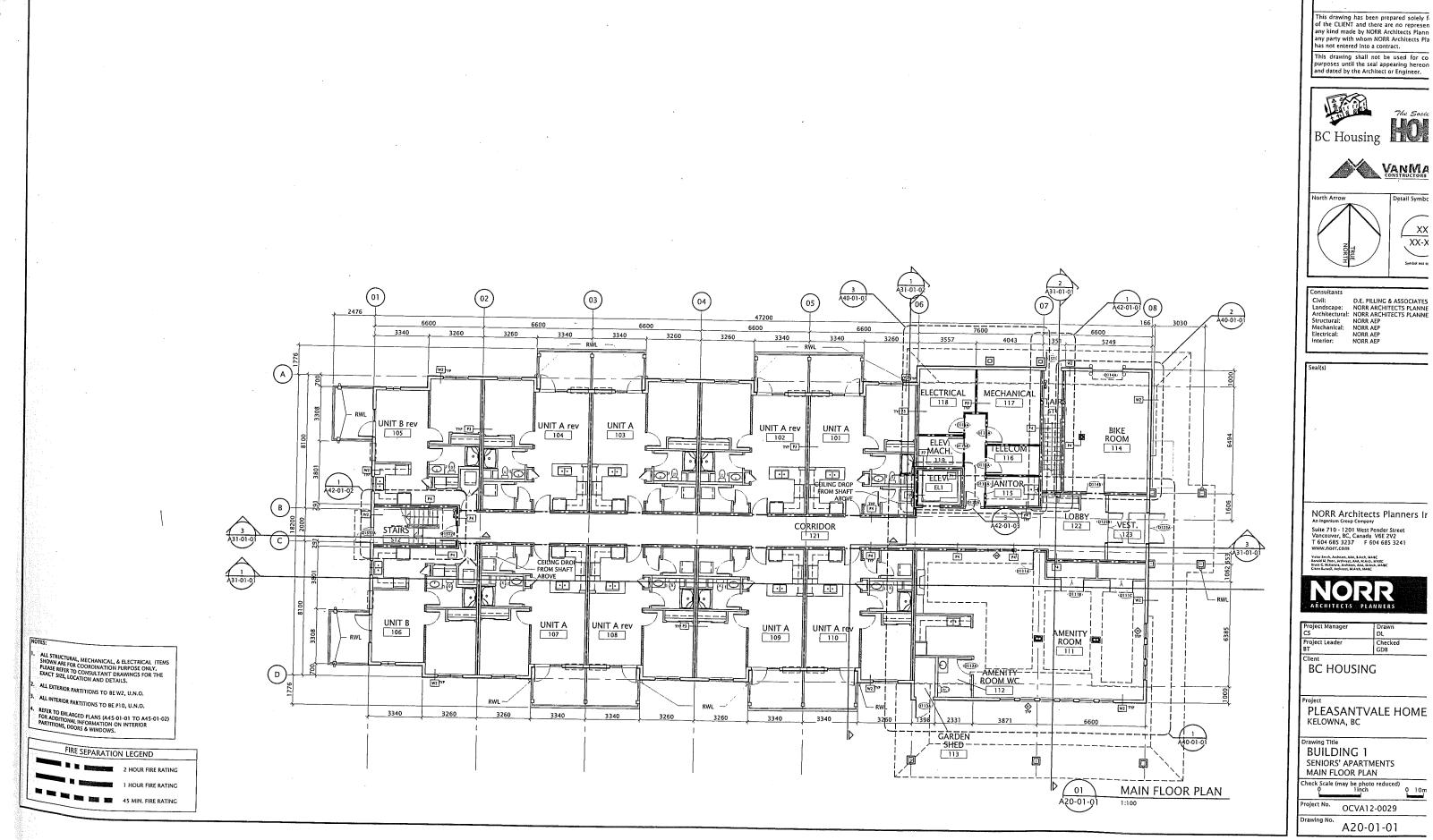
LOT B, PLAN EPP39552, DISTRICT LOT 9, O.D.Y.D.

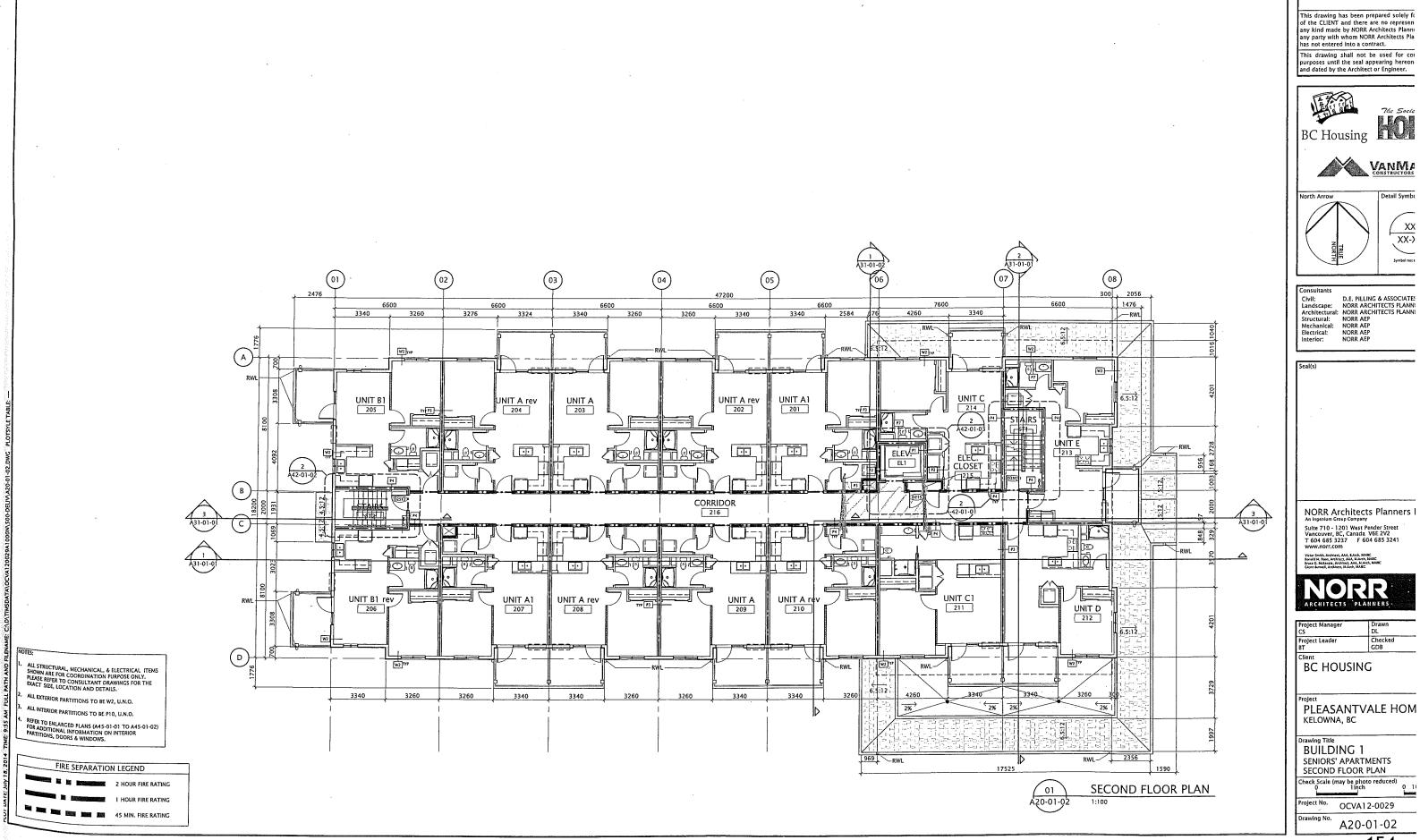
2243-D1 - STORMWATER MANAGEMENT PLAN 2243-R5 - ON-SITE, ROAD AND WATER PLAN / PROFILE 2243-S5 - CAMBRIDGE AVENUE, SANITARY AND STORM PLAN / PROFILE

# CONSULTING ENGINEERING

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PILLING FILE	2243	

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**APPENDIX "A"** 



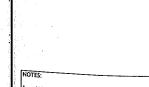


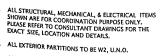


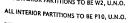


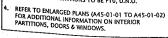






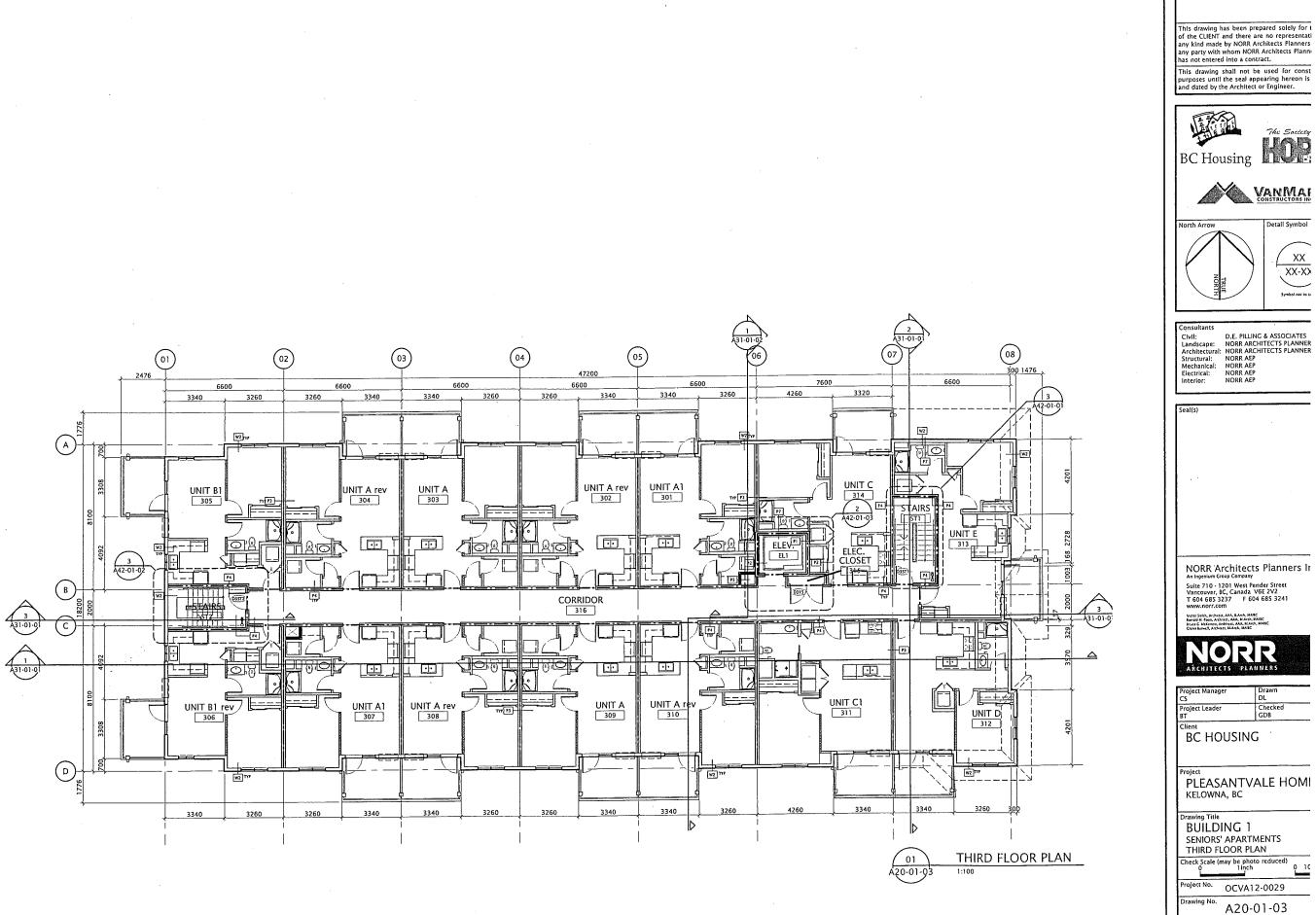




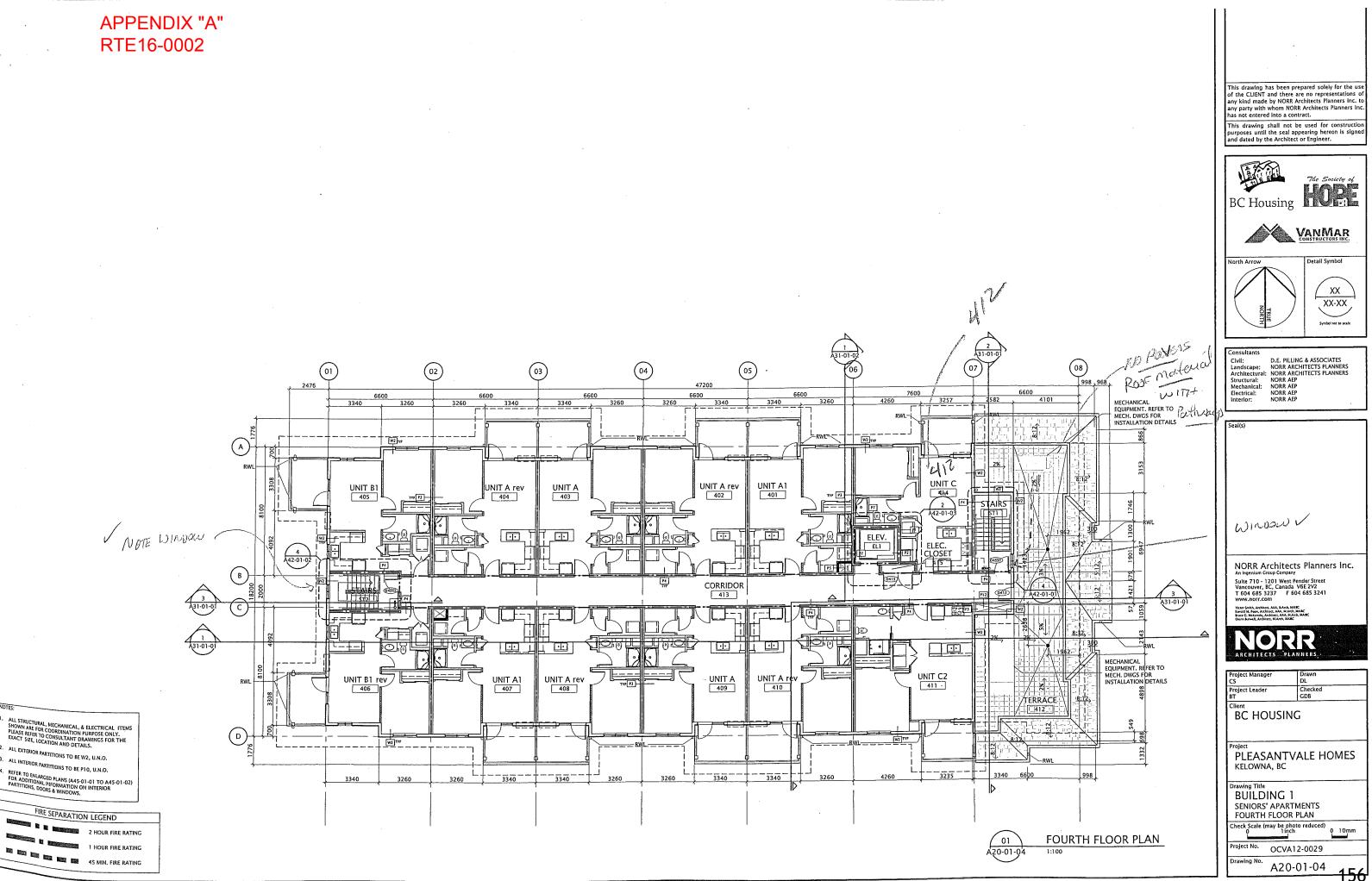


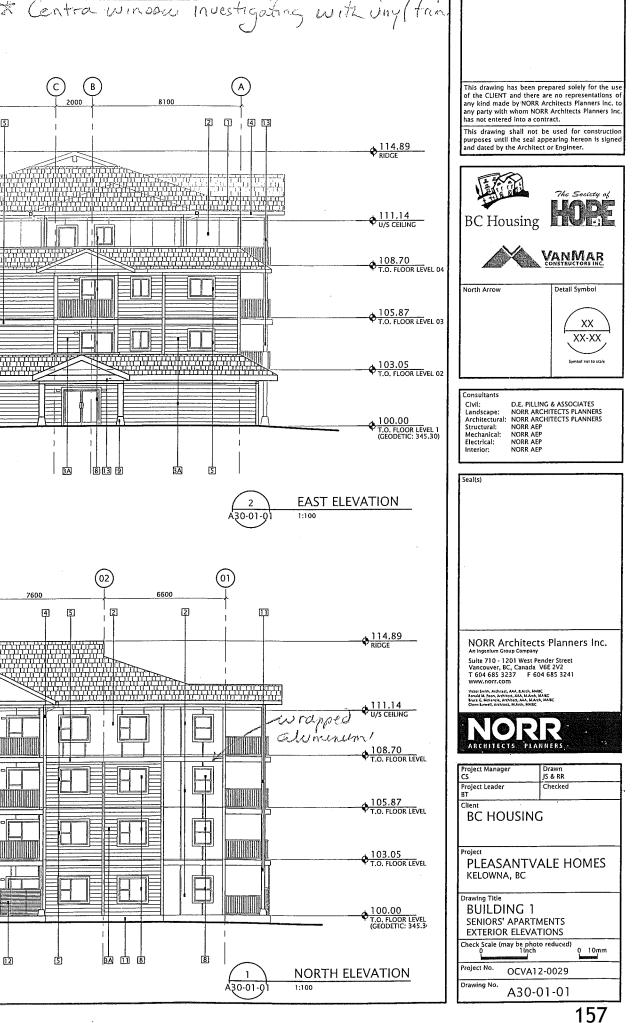


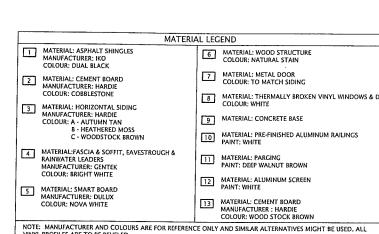
45 MIN, FIRE RATING

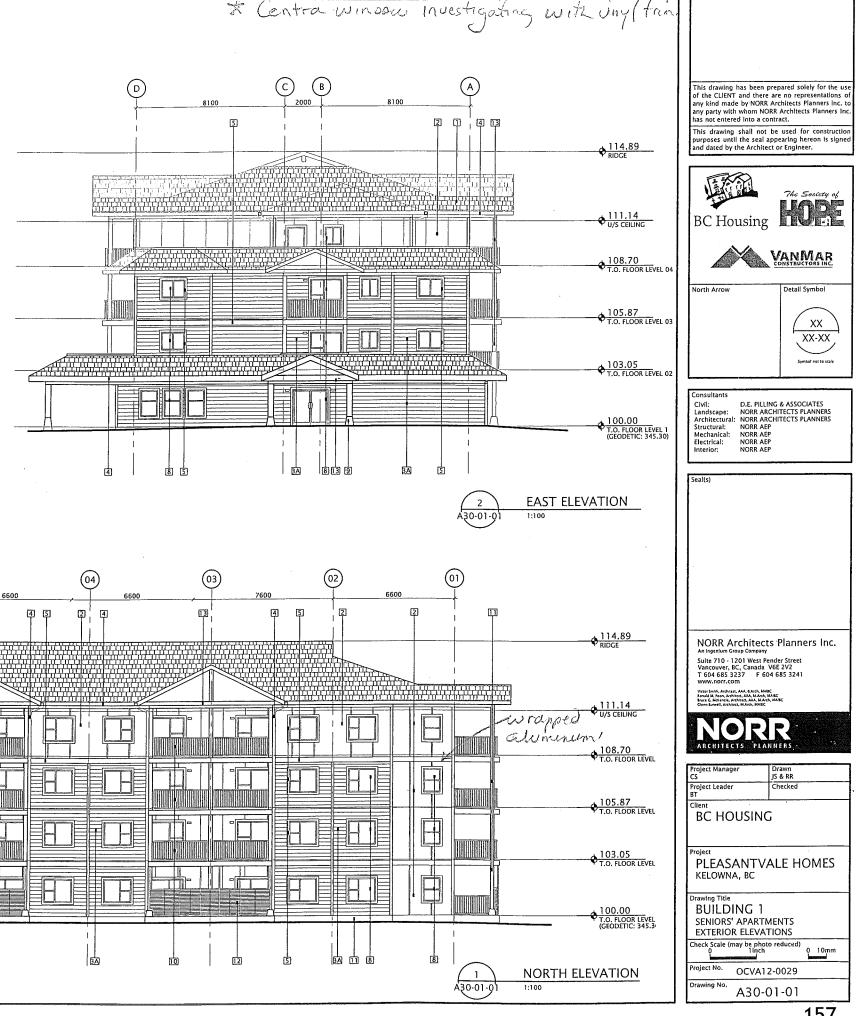


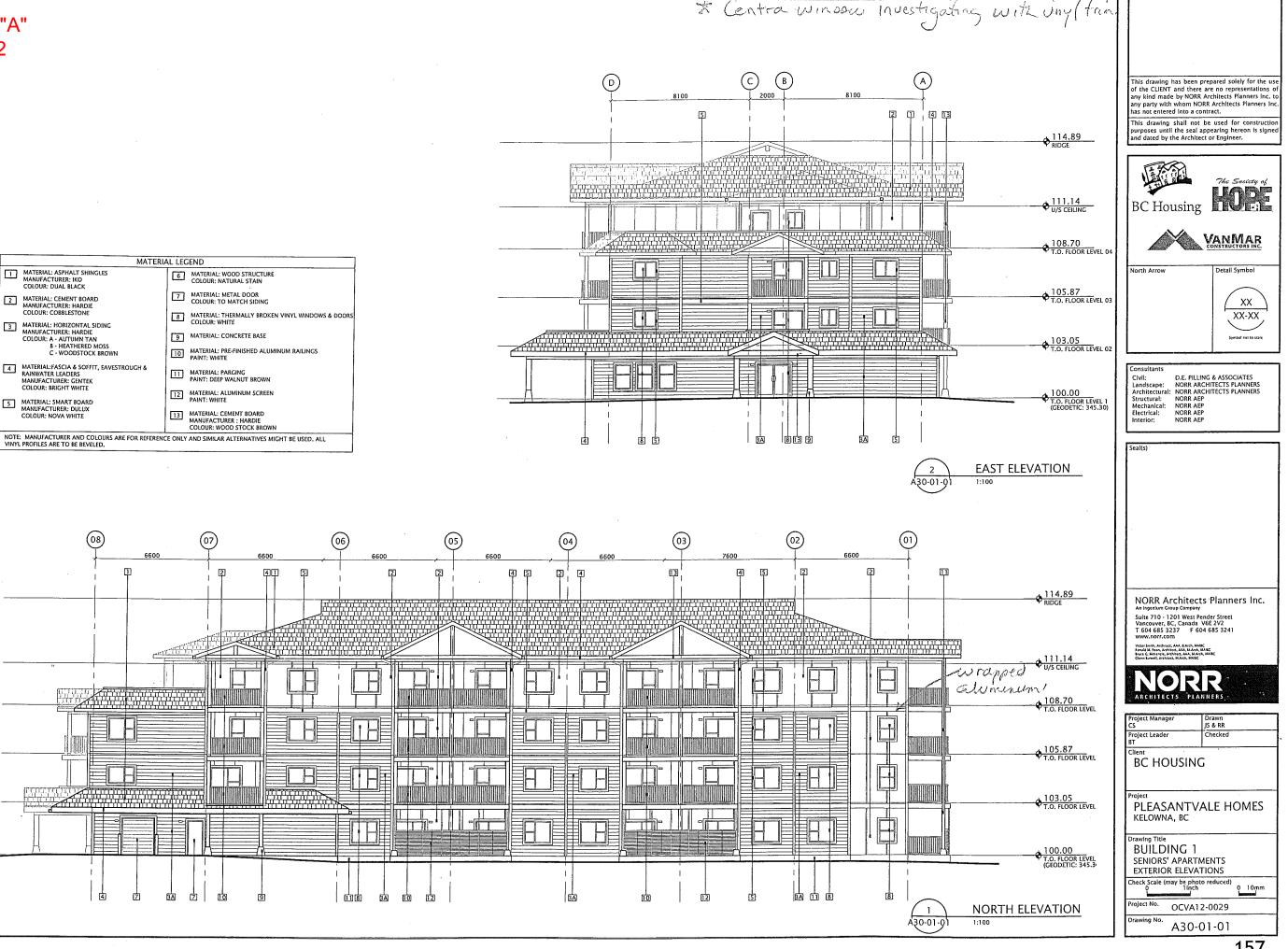
XX XX-X> Symbol not to s











MATERIAL LEGEND

NOTE: MANUFACTURER AND COLOURS ARE FOR REFERENCE ONLY AND SIMILAR ALTERNATIVES MIGHT BE USED, ALL VINYL PROFILES ARE TO BE BEVELED,

6 MATERIAL: WOOD STRUCTURE COLOUR: NATURAL STAIN 7 MATERIAL: METAL DOOR COLOUR: TO MATCH SIDING

9 MATERIAL: CONCRETE BASE

AATERIAL: PARGING PAINT: DEEP WALNUT BROWN

12 MATERIAL: ALUMINUM SCREEN PAINT: WHITE

13 MATERIAL: CEMENT BOARD MANUFACTURER : HARDIE COLOUR: WOOD STOCK BROWN

10 MATERIAL: PRE-FINISHED ALUMINUM RAILINGS PAINT: WHITE

MATERIAL: THERMALLY BROKEN VINYL WINDOWS & DOORS
 COLOUR: WHITE

MATERIAL: ASPHALT SHINGLES MANUFACTURER: IKO COLOUR: DUAL BLACK

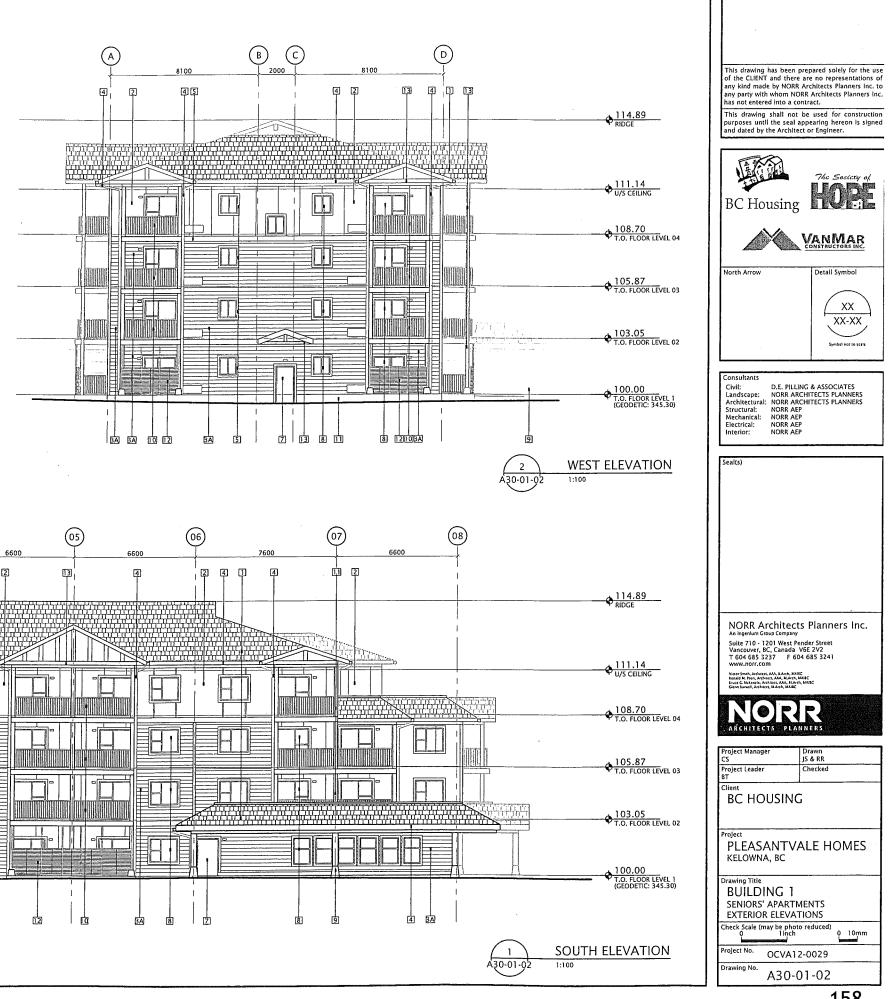
2 MATERIAL: CEMENT BOARD MANUFACTURER: HARDIE COLOUR: COBBLESTONE

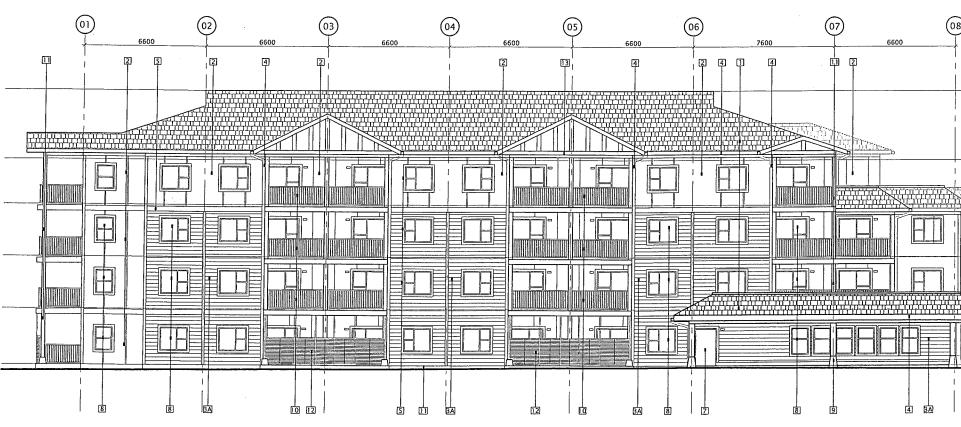
5 MATERIAL: SMART BOARD MANUFACTURER: DULUX

COLOUR: NOVA WHITE

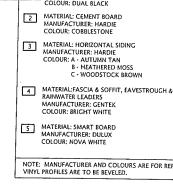
3 MATERIAL: HORIZONTAL SIDING MANUFACTURER: HARDIE COLOUR: A - AUTUMN TAN B + HEATHERED MOSS C - WOODSTOCK BROWN

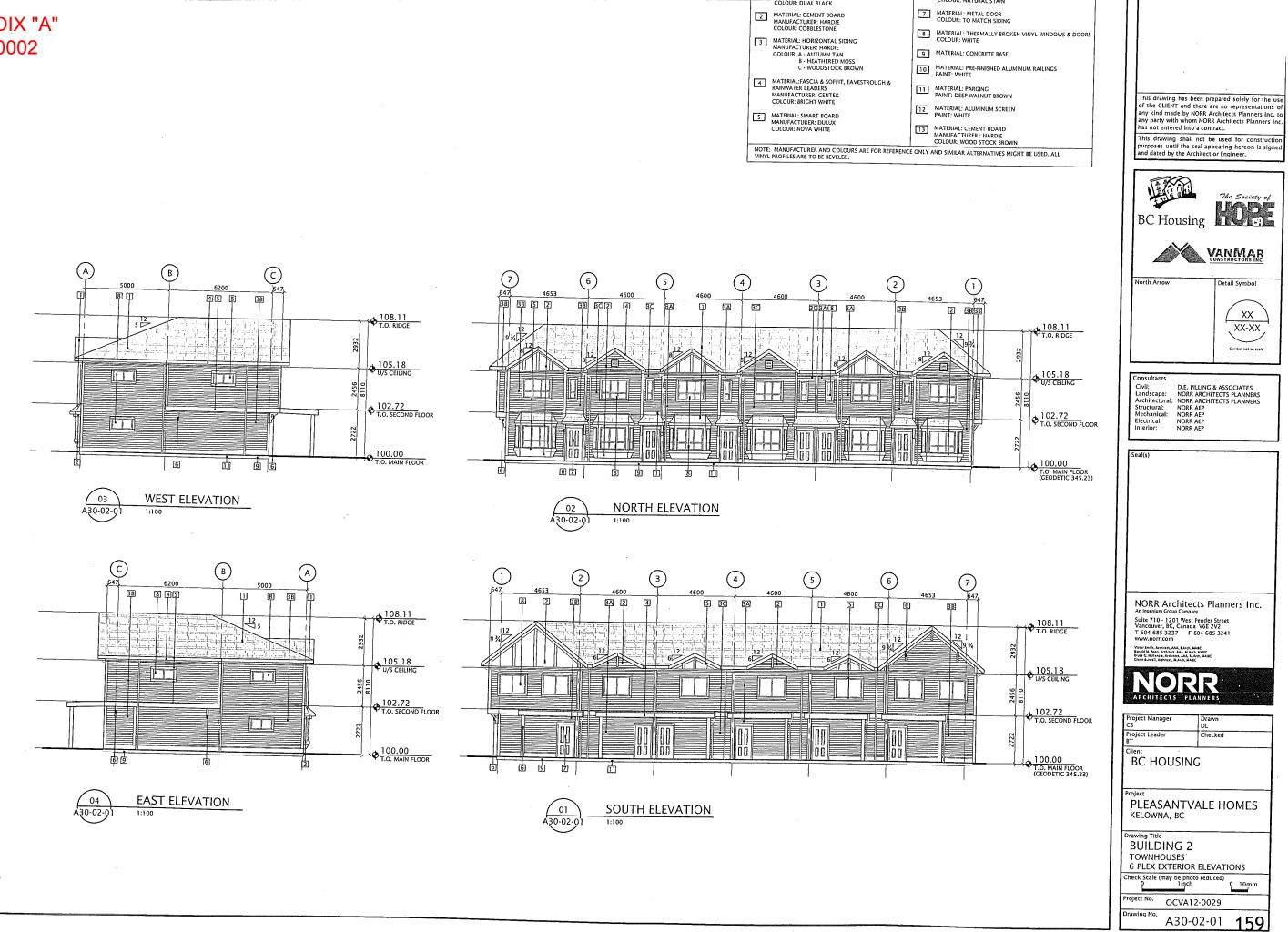
MATERIAL:FASCIA & SOFFIT, EAVESTROUGH & RAINWATER LEADERS MANUFACTURER: GENTEK COLOUR: BRIGHT WHITE





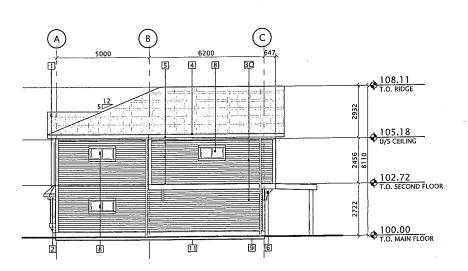
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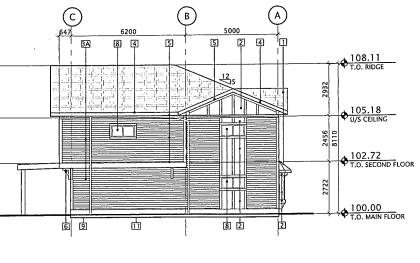


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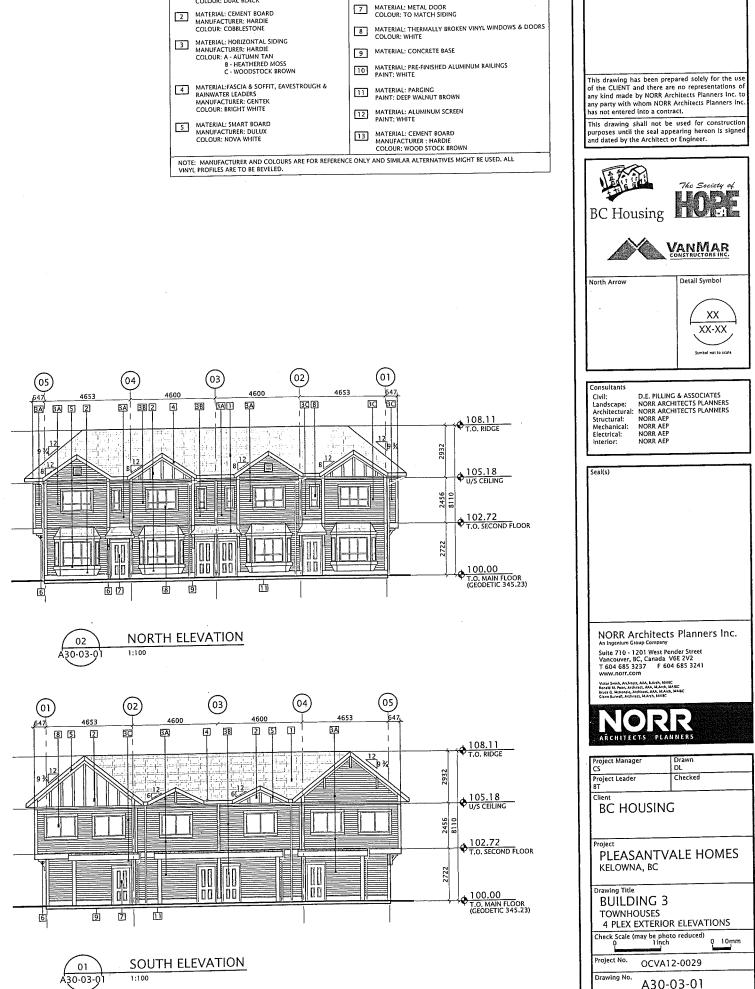
- COLOUR: DUAL BLACK

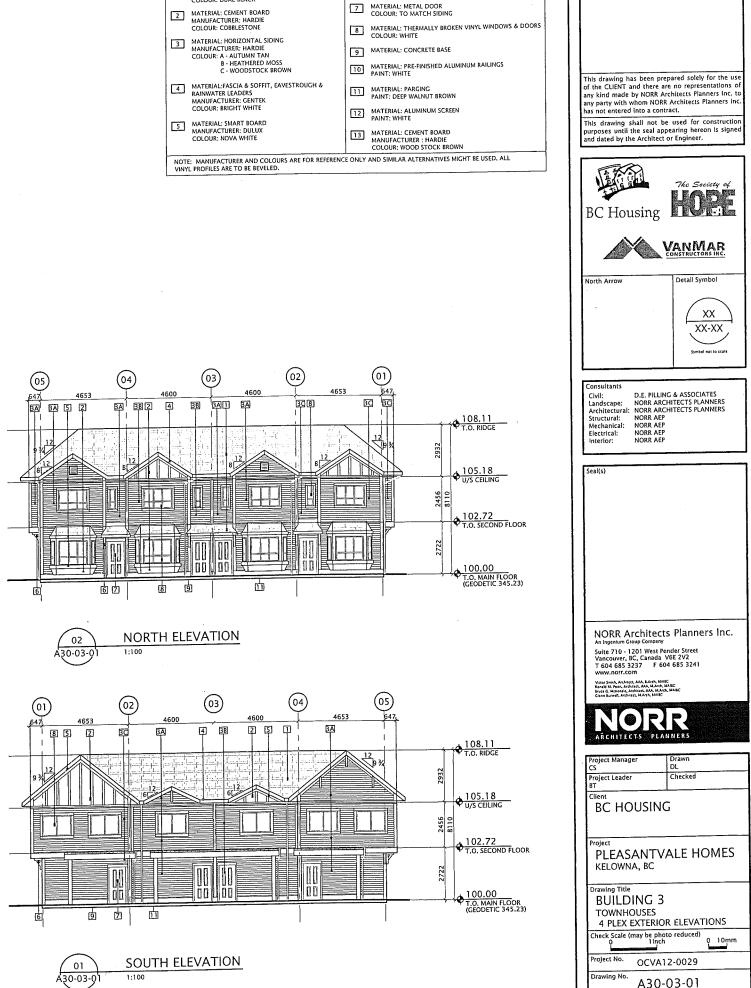
















### INVESTMENT IN AFFORDABLE HOUSING (FEDERAL PROVINCIAL HOUSING INITIATIVE) OPERATOR AGREEMENT

THIS AGREEMENT IS DATED FOR REFERENCE June 1, 2015

BCH File #93907-02 / 7342

### BETWEEN

### THE SOCIETY OF HOUSING OPPORTUNITIES AND PROGRESSIVE EMPLOYMENT #101 - 2055 Benvoulin Court, Kelowna, British Columbia V1W 2C7

(the "Provider")

AND

### BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION Suite #1701 - 4555 Kingsway, Burnaby, British Columbia V5H 4V8

("BC Housing")

with respect to the Development

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### AGREEMENT SUMMARY

### PART 1 – SUMMARY

- 1. Provincial Rental Housing Corporation (PRHC) has purchased the Development from the provincial matching component of the Investment in Affordable Housing Extension under the Canada-British Columbia Agreement for Investment in Affordable Housing Agreement.
- 2. On behalf of the Provincial Rental Housing Corporation (PRHC), BC Housing is charged with and assumes responsibility for the management, operation, and administration of the Development.
- 3. PRHC has entered into a Housing Agreement with Rotary Club of Kelowna and City of Kelowna. The Provider agrees to comply with the Housing Agreement.
- 4. The Development is part of a larger complex, which consists of seventy (70) residential housing units in total, and includes:
  - a. twenty (20) townhouse styled Residential Units for Families who, at the commencement of residency at the Development, have Low and Moderate Income, as owned by PRHC and operated by the Provider under this Investment in Affordable Housing Operator Agreement. This Development is the specific subject matter of this Agreement; and
  - b. fifty (50) units for low income seniors, as leased and operated by the Provider. The Provider will enter into a Community Partnership Initiative Operating Agreement, dated for reference June 1, 2015, with BC Housing regarding the management of these units.

### PART 2 – SERVICE DESCRIPTION

- 1. BC Housing and the Provider have agreed that the Provider will manage the day-to-day operations of the Development and collect Rent from the Residents, on the terms and conditions of this Agreement.
- 2. The common goal of the parties is to provide safe, secure and affordable accommodation for Low and Moderate Income Families as set out in this Agreement.
- 3. The Provider is a fully independent self-governing entity registered under the *Society Act*. Operation of the Provider is subject to its Constating Documents and the *Society Act*. The members of the Provider and its governing board are responsible for all affairs of the Provider related to both Provider operations in general and the ongoing management of the Development.
- 4. In entering this Agreement with the Provider, BC Housing recognizes that the Provider has a purpose to construct, hold, manage, provide and maintain an elderly citizens rest home and/or housing for low income families and individuals as defined by the *National Housing Act*.
- 5. BC Housing recognizes that the Provider brings both tangible and intangible assets to the Development. The Provider's board members serve on a voluntary basis, without recompense for their time and expertise. The Provider and the board bring resources, knowledge and expertise on such things as property management, Resident management and Resident support, and services which specifically relate to the Development and its location.
- 6. The Provider and board are expected to create an environment that is supportive of the needs of the Residents and provide a sense of community within the Development and to that purpose may provide Resident services and activities not funded by this Agreement.

### PART 3 - AGREEMENT

- 1. TERM
  - **a.** The parties agree as follows for a Term of thirty-five (35) years from the day on which the Occupancy Permit is issued for the Development, unless earlier terminated in accordance with the provisions of this Agreement.
  - b. The parties will mutually agree to renew this Agreement subject to final contract.
- 2. OTHER AGREEMENTS
  - a. Should the Community Partnership Initiative Operating Agreement, as set out in *Agreement Summary, Part 1, Clause 6.b*, be terminated, BC Housing may terminate this Investment in Affordable Housing Operator Agreement.
- 3. **PERFORMANCE STANDARDS**. The Provider will meet the Performance Standards set out in *Schedule G* throughout the Term. As requested from time to time by BC Housing, the Provider will provide written reports on its achievement of Performance Standards
- 4. SCHEDULES. All of the Schedules described in the Table of Contents and attached to this Agreement are an integral part of this Agreement

### BC Housing IAH Operator Agreement – Agreement Summary

APPENDIX "B" RTE16-0002

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.

No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties except where this Agreement allows for otherwise.

IN WITNESS of which the duly authorized signatories of each of the Provider and BC Housing have executed this Agreement effective as of the Commencement Date:

THE SOCIETY OF HOUSING OPPORTUNITIES AND PROGRESSIVE EMPLOYMENT

Per its authorized signatories

Z-2-	Oct. 20, 2015
Signature	Date Signed
Kenzeitner, Chief Financial	-
Print Name and Title	
- HArad	Oct 20, 2015.
Signature	Date Signed
Luke H. Stack, Execut	
Print Name and Title	
BRITISH COLUMBIA HOUSING MANAGEMENT COMI	WISSION
Per its authorized signatories	
Signature	Date Signed
Print Name and Title	
Signature	
Signature	Date Signed
·	
Print Name and Title	

### SCHEDULE A – GENERAL PROVISIONS

### A. DEFINITIONS

- 1. "Accumulated Operating Surplus" means any surplus that is generated in excess of the Operating Budget expenditures in any year.
- 2. "Appraised Market Rent" means the market rent amount determined by the Provider in accordance with an appraisal report prepared in conformity with the Code of Professional Ethics and the Standard of Professional Practice of the Appraisal Institute of Canada.
- 3. "Commencement Date" means the day on which the Occupancy Permit is issued for the Development.
- 4. "Constating Documents" means the constitution and bylaws of the Provider, together with any amendments, as registered with a Canadian corporate registry.
- 5. "Declaration of Income and Assets" means the declaration to be completed by a Resident as evidence of the Income and Assets of that Resident, and will be in a form approved by BC Housing as may be amended by BC Housing from time to time, as set out in Schedule B, Part A, Clause 1.
- 6. "Development" means the housing development including twenty (20) Residential Units and any associated exclusive and shared common space, owned by PRHC and operated by the Provider under this Agreement. The Development has the following civic addresses in Kelowna, British Columbia.

Building 2	671, 673, 675, 677, 679 and 681 Cambridge Avenue
Building 3	685, 687, 689 and 691 Cambridge Avenue
Building 4	668, 670, 672, 674, 676 and 678 Central Avenue
Building 5	682, 684, 686 and 688 Central Avenue

- 7. "Family" means a minimum of two (2) people including at least one dependent child, regardless of the age of such child at the time of occupancy.
- 8. "Financial Report" means the financial reporting template that must be completed and submitted by the Provider to BC Housing annually and that is provided by BC Housing and may be amended from time to time.
- 9. "Fiscal Year" means the fiscal year of the Provider ending on December 31, or as otherwise agreed by the parties.
- 10. "Housing Agreement" means an agreement amongst Provincial Rental Housing Corporation, Rotary Club of Kelowna and City of Kelowna with the intention to serve the public interest by providing for occupancy of a certain number of affordable rental units. This agreement is registered as a section 219 covenant under the Land Title Act with the Land Title office under the registration number of CA4046954.
- 11. "Housing Registry" means a partnership between BC Housing and other affiliated housing organizations to provide a centralized database with current application information.
- 12. "Improvements" means those improvements, structures, buildings, fixtures and systems including the heating, ventilating, air-conditioning, plumbing, electrical and mechanical systems and equipment which exist on the Land.
- 13. "Income" of a Resident means the total Income before income tax from all sources of the Resident.
- 14. "Land" means those lands and premises situated at the Development and legally described as PID 029-429-412 Lot B, District Lot 9, Osoyoos Division Yale District Plan EPP 39552.
- 15. "Low and Moderate Income" represents the maximum income for eligibility to occupy a Residential Unit and means the gross household income does not exceed the median income for families with children, as determined by BC Housing using data released by Statistics Canada – Income Statistics Division, and more specifically, the median pretax income for families in the City of Kelowna. As of 2014, this figure is \$74,697 (Statistics Canada National Household Profile 2011).
- 16. "Maintenance Plan" means the maintenance plan set out in Schedule G.

### BC Housing IAH Operator Agreement – Schedule A

- 17. "Occupancy Permit" is a certificate that must be obtained prior to occupancy that is issued if all required inspections have been carried out and the building or structure is deemed substantially complete and fit for occupancy.
- 18. "Occupancy Standards" means the standards for household sizes of a Resident relative to the number of bedrooms in a Residential Unit. Unless otherwise agreed in writing by BC Housing, the following standards apply:
  - a. No more than two (2) and no less than one (1) person per bedroom.
  - b. Spouses and couples share a bedroom.
  - c. Parents do not share a bedroom with their children.
  - d. Dependents aged eighteen (18) or over do not share a bedroom.
  - e. Dependents of the opposite sex age five (5) or over do not share a bedroom.
- 19. "Operating Budget" means the annual budget for each Development prepared by the Provider. The Operating Budget will not include any expenses for the Development paid for directly by BC Housing as set out in this Agreement.
- 20. "Operational Review" means the onsite review of the Development operations, as conducted by BC Housing from time to time, in accordance with *Schedule C*.
- 21. "Performance Standards" means those minimum levels of performance, as set out in *Schedule G*, that the Provider must meet in accordance with this Agreement.
- 22. "Provincial Rental Housing Corporation" (PRHC) is incorporated under the *Business Corporations Act.* PRHC is the land holding corporation for provincially owned social housing. BC Housing administers PRHC, which buys, holds and disposes of properties, and leases residential properties to non-profit societies and co-operatives.
- 23. "Record" means accounts, books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical and other means, but does not include a computer program or any other mechanism that produces records.
- 24. "Rent" means the amount a Resident is obligated to contribute monthly to the Provider for a Residential Unit, as set out in *Schedule B*.
- 25. "Replacement Reserve Fund" means an amount the Provider is required to hold in reserve for capital repairs, replacements and improvements in accordance with *Schedule B, Clause D.*
- 26. "Residency Agreement" means an agreement, lease, license or other right of a Resident to occupy a Residential Unit.
- 27. "Resident" means the person or persons legally entitled to reside in a Residential Unit pursuant to a Residency Agreement.
- 28. "Residential Unit" means a self-contained residential dwelling within the Development.
- 29. "Schedule of Capital Repairs" means the schedule prepared in accordance with Schedule B, Part D, Clause 1 and in the form specified in Schedule H.
- **30.** "Specific Purpose" means the purpose of this Agreement, being the provision of affordable housing for Low and Moderate Income Families.
- 31. "Term" means the period of this Agreement as outlined in Agreement Summary, Part 3.
- B. RESPONSIBILITY OF THE PROVIDER
  - 1. **Provider's Acknowledgements**. The Provider is entering into this Agreement to operate the Development and will do so in a proper, efficient and timely manner as would a prudent operator of similar property and that its fundamental purpose in doing so is to benefit the public interest.
  - 2. Corporate Organization. The Provider will maintain a well organized corporate structure and policies and procedures that ensure that the Development is well managed, and in particular will:
    - a. operate as a non-profit entity;
    - **b.** remain a corporation in good standing with the appropriate Canadian corporate registry;
    - c. have a purpose that includes the provision of affordable housing and is consistent with the Specific Purpose;
    - not permit a director or officer to be remunerated except for reimbursement of any expenses necessarily and reasonably incurred by the director or officer while engaged in the affairs of the Provider;

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- e. provide for the disposition of assets to an organization with a similar charitable purpose in the event of dissolution or winding up;
- f. not alter its Constating Documents in any way that would make them inconsistent with the terms of this Agreement or that would render the Provider unable to fulfill its obligations under this Agreement; and
- **g.** provide BC Housing with a copy of the Provider's Constating Documents and any amendments, as requested by BC Housing from time to time.
- 3. Restrictions on Authority. The Provider must not commit or otherwise obligate BC Housing in any manner whatsoever, except to the extent specifically provided in this Agreement, or as specifically authorized in writing by BC Housing and in particular, without limiting the generality of the foregoing, the Provider must not take any action, expend any sum, make any decision, give any consent, approval or authorization or incur any obligation with respect to any of the following matters except with the prior written approval of BC Housing:
  - a. charging or allowing any encumbrance to charge title to all or any part of the Development; and
  - **b.** executing any lease or any other arrangement involving the rental, use or occupancy of all or part of the Development other than a Residency Agreement in accordance with this Agreement.
- 4. Agency. This Agreement shall not be construed as creating any partnership or agency between BC Housing and the Provider and neither party shall be deemed to be the legal representative of any other party for the purposes of this Agreement. Neither BC Housing nor the Provider shall have, and shall not represent itself as having, any authority to act for, to undertake any obligation on behalf of the other party, except as expressly provided in this Agreement.
- 5. Conflict of Interest. The Provider will not, during the Term, perform a service for or provide advice to any person or entity where the performance of such service or the provisions of the advice may, in the reasonable opinion of BC Housing, give rise to a conflict of interest between the obligations of the Provider to BC Housing under this Agreement and the obligations of the Provider to such other person or entity.
- 6. Compliance. The Provider will remain in compliance with all applicable laws, regulations and bylaws and is responsible for obtaining and complying with all necessary approvals and permits relating to the Development.
- 7. Communication with BC Housing. The Provider as soon as reasonably possible will:
  - a. provide BC Housing with details on all incidents that are significant enough to threaten the continuous operation of the Development;
  - advise BC Housing of any serious health and safety issues, including outbreaks of infectious diseases, serious physical or sexual assaults and the death of Residents and staff on site;
  - c. notify BC Housing before making any changes that could diminish the Provider's ability to fulfill its obligations under this Agreement in the Development;
  - d. inform BC Housing of material changes to service levels in the Development (i.e., number of Residential Units); and
  - e. submit for review by BC Housing all material policy changes related to the Development.
- 8. Performance Standards
  - a. Performance Standards. The Provider will meet the Performance Standards set out in *Schedule G* throughout the Term. As requested from time to time by BC Housing, the Provider will provide written reports on its achievement of Performance Standards.
  - b. Adjustment to Responsibilities and Performance Standards. From time to time, in accordance with changing business requirements, BC Housing reserves the right to modify Performance Standards in consultation with the Provider. BC Housing will give the Provider 120 days' notice of implementation.
- 9. Management and Maintenance. The Provider will meet or exceed the Performance Standards set out in *Schedule G*, and will:

- a. maintain the Development in a satisfactory state of repair and fit for habitation and perform all maintenance and repair work including that maintenance and repair work described in, but not limited to, *Schedule H*;
- b. advise BC Housing immediately if it becomes aware of any structural deficiency in the Development, or any need for any maintenance, repair or replacement requiring an expenditure in excess of \$5,000.00 per occurrence, if such maintenance, repair or replacement is not included in the Schedule of Capital Repairs, in accordance with Schedule B, Part D, Clause 1;
- c. follow the BC Housing Non-Profit Procurement Guidelines for all tenders or bids that it calls for work on the Development. In the case of capital repairs that are over \$100,000.00, a public procurement process must be undertaken in accordance with BC Housing's Procurement Standards; and
- **d.** not enter into a contract for the management of all or part of the Development by any person or organization other than its own employees, unless approved by BC Housing.
- 10. Preservation of Assets. Throughout the Term, the Provider will maintain in good repair all grounds, landscaping, buildings, Development related equipment and other Development related chattels belonging to BC Housing, or acquired by the Provider on behalf of BC Housing. At the end of the Term, the Provider will return all Development related equipment and other Development related chattels to BC Housing in the same condition as at the start of this Agreement, reasonable wear and tear excepted.
- 11. Equipment Ownership. Any equipment or other chattels acquired by the Provider from revenue from any source related to the Development during the Term will become the property of BC Housing and will remain with the Development at the end of the Term.

### C. RESPONSIBILITY OF BC HOUSING

- 1. BC Housing will:
  - a. assign a person to liaise with the Provider;
  - b. provide advice and direction to the Provider in managing the Development to meet the objectives and provisions in this Agreement. To this end BC Housing will work cooperatively with the Provider, taking into account its operational realities and recognizing the Provider's need for adequate financial and organizational resources to meet its obligation of providing housing to the Residents;
  - c. monitor the operation of the Development and the use by the Provider of revenues in accordance with this Agreement, to ensure that the standards, objectives and expectations in this Agreement are met; and
  - d. except in the event of an emergency, give the Provider forty-eight (48) hours' notification of its intent to enter the Development.

### D. RECORDS

- 1. Information Management. The Provider will comply with all applicable privacy legislation and will maintain accurate and complete operational Records, policies and practices necessary for its obligations under this Agreement.
- 2. Procedures and Processes. The Provider will:
  - a. notify BC Housing in writing immediately upon becoming aware of any breach of privacy or security involving the unauthorized collection, use, disclosure or destruction of information relating to its obligations under this Agreement;
  - b. if the *Document Disposal Act* (British Columbia) applies to the destruction of Records, notify BC Housing for consultation prior to the destruction; and
  - c. cooperate with BC Housing when BC Housing has a request under the *Freedom* of *Information and Protection of Privacy Act* (British Columbia) to which Records in the Provider's custody apply, by locating and disclosing the relevant Records as directed by BC Housing upon notice and without delay.
- 3. Record Retention. The Provider will retain all Records that pertain to its obligations under this Agreement for the retention period required under applicable provincial and federal laws, but for not less than seven (7) years following the date of receipt or production of those Records.

4. Audits. BC Housing and its agents have the right to inspect all Records related to, arising from, or maintained by the Provider to deliver the Provider's obligations, including the right of BC Housing and its agents to enter any premises used by the Provider to deliver the Provider's obligations or used to keep or store Records pertaining to the Provider's obligations under this Agreement, at any time after the delivery of notice to the Provider, and have the immediate right to make extracts from and take copies of those Records. The Provider acknowledges that disclosure to BC Housing and its agents, without consent from the individual the Record is about, for audit purposes, is permitted under information and privacy legislation.

### E. LIABILITY

- 1. Indemnity by Provider. The Provider will indemnify and save harmless the Provincial Rental Housing Corporation, BC Housing, Her Majesty the Queen in Right of the Province of British Columbia, and each of their ministers, board members, officers, directors, employees and agents, from all claims and costs which they may be liable for or incur, whether before or after this Agreement ends, arising out of any act or omission of the Provider or its officers, directors, employees, agents, contractors or other persons for whom at law the Provider is responsible, related to the Provider's operation and management of the Development under this Agreement, including with respect to any Residency Agreement, except to the extent that such claims or costs are caused by the independent negligence of BC Housing or its employees, agents or contractors.
- 2. Survival. The obligations set out in *Schedule A, Part E, Clause 1* survive termination of this Agreement.

### F. DISPUTE RESOLUTION

- 1. If a dispute arises between the parties out of or in connection with this Agreement the parties agree that the following dispute resolution process will be used:
  - a. a meeting will be held promptly between the parties, attended by individuals with decision making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute;
  - b. if, within fourteen (14) days after such meeting or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties agree to try to resolve the dispute by participating in a structured negotiation conference with a mediator agreed upon by the parties or, failing agreement, under the Commercial Mediation Rules of the British Columbia International Commercial Arbitration Centre, in which case the appointing authority is the British Columbia International Commercial Arbitration Centre; and
  - c. after dispute resolution attempts have been made under Schedule A, Part F, Clause 1.a - b, any remaining issues in dispute will be determined by arbitration under the Commercial Arbitration Act, and the decision of the Arbitrator will be final and binding and will not be subject to appeal on a question of fact, law or mixed fact and law.

### G. DEFAULT AND TERMINATION

- 1. Event of Default. Any of the following events will constitute an event of default by the Provider under this Agreement;
  - a. the Provider fails to comply with any provision of this Agreement;
  - b. the Provider fails to remain in good standing with the appropriate Canadian corporate registry;
  - c. the Provider is in breach of or fails to comply with any applicable law, regulation or permit;
  - d. the Provider permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof;
  - e. any representation or warranty made by the Provider in accepting this Agreement is found to be untrue or incorrect; and

- f. if the Provider knew or ought to have known any information, statement, certificate, report or other document furnished or submitted by, or on behalf of, the Provider pursuant to, or as a result of, this Agreement is untrue or incorrect.
- 2. Default. If, in the opinion of BC Housing, the Provider is in breach of this Agreement, BC Housing will provide written notice to the Provider which sets out the breach and the date by which the breach must be rectified.
- 3. Termination on Continued Default. If the Provider fails to comply with a written notice given in accordance with *Schedule A, Part G, Clause 2* within a reasonable period of time, BC Housing, in its sole discretion, may take such measures as it deems necessary to rectify the deficiencies, which may include but not be limited to the immediate termination of this Agreement.
- 4. Early Termination. Notwithstanding anything stated to the contrary in this Agreement, the parties agree that BC Housing will have the right at any time, by giving twenty-four (24) hours' written notice to the Provider, to terminate this Agreement in any of the following events:
  - a. upon the bankruptcy and/or receivership of the Provider;
  - upon wilful and persistent breach by the Provider of normal and usual practice of managerial functions which results in any prejudice whatever to BC Housing;
  - c. upon the Provider ceasing to carry out its operations without profit to itself or its members; and
  - **d.** upon the failure by the Provider to maintain its corporate status under the applicable laws of the Province of British Columbia.
- 5. Termination Without Cause. Either party may terminate this Agreement at any time during the Term by giving to the other party 180 days' written notice and this Agreement will terminate on the 180th day following receipt of such notice.
- 6. Damage or Destruction. If, in the opinion of a professional engineer or architect appointed by the Provider or BC Housing, the Development is damaged or destroyed in excess of 25% of its insurable value; BC Housing may terminate this Agreement by delivering written notice of immediate termination to the Provider within 30 days after the date of that damage or destruction.
- 7. Adjustments on Termination. Upon the termination of this Agreement, however effected, the parties will forthwith complete all necessary accounting and adjustments between them to effectively reconcile and finalize their obligations pursuant to this Agreement.

### H. GENERAL PROVISIONS AND INTERPRETATION

- 1. Notices. All notices, demands or requests of any kind, which the Provider or BC Housing may be required or permitted to serve on the other in connection with this Agreement, will be in writing and may be served on the parties by registered mail, by telecopied transmission, or by personal service, to the addresses set out on the cover page. Any notice, demand or request made to BC Housing, to be effective, will be addressed to BC Housing's representative.
- 2. Change of Address. Either party from time to time, by notice in writing served upon the other party, may designate a different address or different or additional personnel to which all those notices, demands or requests are thereafter to be addressed.
- 3. Time. Time is of the essence of this Agreement. If either party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. Any time specified in this Agreement for observing or performing an obligation is local time in Vancouver, British Columbia.
- 4. **Governing Law**. This Agreement is to be governed by and construed and enforced in accordance with the laws of the Province of British Columbia.
- 5. Validity of Provisions. If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that invalidity, illegality or unenforceability does not affect any other provisions of this Agreement. The balance of the agreement is to be construed as if that invalid, illegal or unenforceable provision had never been included and is enforceable to the fullest extent permitted at law or at equity.

- 6. Waiver. No consent or waiver, expressed or implied, by a party of any default by the other party in observing or performing its obligations under this Agreement is effective unless given in writing, nor is it a consent or waiver of any other default. Failure on the part of either party to complain of any act or failure to act by the other party or to declare the other party in default, irrespective of how long that failure continues, is not a waiver by that party of its rights under this Agreement or at law or at equity.
- 7. Extent of Obligations and Costs. Every obligation of each party in this Agreement extends throughout the Term. To the extent an obligation ought to have been observed or performed before or upon the expiry or earlier termination of the Term, that obligation, including any indemnity, survives the expiry or earlier termination of the Term until it has been observed or performed.
- 8. Statutes. Any reference in this Agreement to a provincial or federal statute includes the statute as it exists on the reference date of this Agreement and any subsequent amendments or replacements
- 9. Assignment and Subcontracting.
  - a. The Provider will not without the prior written consent of BC Housing;
    - i. assign, either directly or indirectly, this Agreement or any right of the Provider under this Agreement; or
    - ii. subcontract any obligation of the Provider under this Agreement.
  - b. In the event that BC Housing approves a subcontract, no subcontract entered into by the Provider will relieve the Provider of any of its obligations under this Agreement or impose upon BC Housing any obligation or liability arising from any such subcontract. The Provider must ensure that any subcontractor fully complies with this Agreement in performing the subcontracted Services.
  - c. This Agreement enures to the benefit of and binds each of BC Housing and the Provider and their respective successors and permitted assigns.

### SCHEDULE B - FINANCIAL

### A. INCOME AND RENT

- 1. Proof of Income and Assets. As directed by BC Housing, the Provider will obtain a Declaration of Income and Assets and supporting documentation as evidence of the Income and Assets of that Resident at the time of the initial occupancy. The Provider will maintain a copy of each Resident's proof of Income in a file available to BC Housing on request.
- 2. Rent. The Provider will review each Resident's Declaration of Income and Assets together with any supporting documentation, and the following will apply:
  - a. The Rent will not exceed 90% of the Appraised Market Rent, and may be increased in compliance with the *Residential Tenancy Act*. For greater clarity, the increase will not result in Rent exceeding 90% of the Appraised Market Rent.
  - b. The Provider acknowledges the monthly Rents on Commencement Date are as follows, which are set by a commissioned Appraised Market Rent completed by A-1 Appraisals Ltd, of Kelowna, dated September 16, 2014:

Residential Unit Size	Appraised Market Rent		Maximum Rents
2-bedroom	\$1,238.00	× 90%	\$1,114.20
3-bedroom	\$1,378.00	x 90%	\$1,240.20

- c. The Provider will obtain or cause to obtain an Appraised Market Rent every five (5) years, beginning the Commencement Date. After the first Appraised Market Rent, the Provider, at its option, may require the appraiser to provide an estimated average market rent for all Residential Units of their particular types, rather than an estimate of the actual market rent for each Residential Unit.
- 3. Application of Rents. The Provider will collect Rents, rental charges or other fees from the Residents and apply this income to the cost of operating the Development.

### B. REVENUES AND EXPENSES

- 1. The Provider will be responsible for collecting all Rents and other revenue for the Development, and the Provider will be responsible for paying out of such revenues all costs associated with the operation of each Development. Such costs will include, but are not limited to, the following:
  - a. liability insurance;
  - b. sewer, water and garbage pickup;
  - c. property taxes;
  - d. utilities;
  - e. staffing costs;
  - f. costs for maintaining the buildings, including all equipment, materials and supplies required;
  - g. the Replacement Reserve Fund; and
  - h. administration costs, including accounting and legal fees.

#### C. NO OTHER ASSISTANCE

 No other Assistance. BC Housing is not committed or obliged to make any other financial contribution to the Provider or to subsidize the ongoing operation of the Development.

### D. REPLACEMENT RESERVE FUND

1. Replacement Reserve Fund. The Provider will prepare a schedule setting out projected capital repairs and improvements over a thirty-five (35)-year period and update it every five (5) years, in the format set out in *Schedule H*. The Provider will also create the Replacement Reserve Fund for capital repairs and replacements to the Improvements on the Land in accordance with *Schedule H* as amended by BC Housing from time to time, and the following apply:



- a. revenues permitting, the Provider will set aside \$60.00 per unit per month into the Replacement Reserve Fund; and
- b. in the event of a deficit, the Provider may request permission from BC Housing to decrease its contribution to the Replacement Reserve Fund until such time that the deficit is remedied. Permission by BC Housing will not be unreasonably withheld.
- 2. Replacement Reserve Fund Expenditure. Replacement Reserve Funds may only be expended as follows:
  - **a.** to pay for capital repairs and replacements to the Improvements in accordance with *Schedule H*; or
  - b. to pay for other payments as may be approved by BC Housing.
- 3. Investment of Funds. The Provider will deposit and keep the Replacement Reserve Fund and accumulated interest in securities authorized in accordance with the Provider's Constating Documents, the *Society Act*, and the *Trustee Act*.
- E. OPERATING DEFICIT AND SURPLUS
  - 1. Deficit. The Provider will be responsible for any operating shortfalls or extraordinary expenses. Any deficit will not be the responsibility of BC Housing.
  - 2. Accumulated Operating Surplus. The Provider will retain the Accumulated Operating Surplus. The Provider will use the Accumulated Operating Surplus on the following:
    - a. to reduce the Rents payable by the Residents in the Development; or
    - b. to cover costs relating directly to the Development or the fifty (50) senior units as set out in Agreement Summary, Part 1, 6.b.
  - 3. Investment of Funds. The Provider will deposit and keep the Replacement Reserve Fund and accumulated interest in securities authorized in accordance with the Provider's Constating Documents, the *Society Act*, and the *Trustee Act*.

### F. TRANSFER OF FUNDS

1. Transfer of Funds. At the termination of this Agreement, regardless of cause or at the request of BC Housing, all Replacement Reserve Funds, any Accumulated Operating Surplus and security deposits will be transferred to BC Housing.

### G. FINANCIAL MANAGEMENT AND ADMINISTRATION

- 1. Finances. The Provider will establish written policies and procedures for effective control of finances for the Development and, in particular, will:
  - establish and maintain books of account and retain invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to BC Housing, to be used as the basis for the calculation of the payment as set out in *Schedule B*;
  - b. have sound financial operating written policies and procedures in place, including clearly defined spending authority, record keeping and financial statements in accordance with Canadian Accounting Standards;
  - c. collect audit arrears; and
  - d. establish corrective course of action on problematic accounts.
- 2. Operating Budget. The Provider will prepare an Operating Budget in advance of each Fiscal Year and regularly review the financial affairs in accordance with *Schedule B*.
- 3. Revenue. All revenue received by the Provider from whatever source with respect to the Development will be collected by the Provider, held by the Provider and used by the Provider solely for the purpose of and to the extent authorized by this Agreement.
- 4. BC Housing Audit. BC Housing reserves the right to audit the books, records and accounts of the Provider that pertain to its operation of the Development at any reasonable time.
- 5. Submitting Audited Financial Statements. The Provider will submit audited financial statements and a copy of the related auditor's management letter to BC Housing within four (4) months after the end of each Fiscal Year, and the following will apply:

- a. where the Provider provides services in addition to those provided under this Agreement, the audited financial statement will include a separate Schedule of Revenue and Expenditure for each services provided;
- b. include details of any funding received from another agency or organization and used by the Provider to co-fund any services provided by the Provider;
- c. indicate that the Provider has properly funded and maintained the Replacement Reserve Fund, and that all interest accruing to the Replacement Reserve Fund has been recorded; and
- **d.** indicate that any Operating Surplus is being spent and accounted for as provided in this Agreement.
- 6. Security Deposits. The Provider may collect and keep security deposits unless otherwise directed by BC Housing. All funds collected and held by the Provider as a security deposit must be handled in accordance with the *Residential Tenancy Act*.

### SCHEDULE C - MONITORING AND REPORTING

### A. REPORTING

- 1. The Provider will submit to BC Housing, every five (5) years, an updated Maintenance Plan and Schedule of Capital Repairs.
- 2. In accordance with the Housing Agreement, on May 1 of each year or at such other times as City of Kelowna or Rotary Club of Kelowna may reasonably request, the Provider will submit in writing its compliance with the Housing Agreement, and the following will apply:
  - a. the Provider will submit to City of Kelowna's Director of Community Development or their designate, and Rotary Club of Kelowna;
  - b. the submission will be in the form of a Statement of Compliance signed by a Certified Professional Accountant for the period ending May 1 of each year;
  - c. the Statement of Compliance will include confirmation that Residents' Income residing in these twenty (20) Residential Units and the Rents are as set out in *Schedule B, Part A, Clause 2.b* of this Agreement; and
  - d. the Statement of Compliance will not include personal or financial information identifying individual Residents.

### B. OPERATIONAL REVIEW

- 1. From time to time, BC Housing may conduct an onsite Operational Review to determine compliance with the terms of this Agreement and any other agreements between the Provider and BC Housing.
- 2. BC Housing will provide the Provider with thirty (30) days' written notice of an Operational Review.

### SCHEDULE D - RESIDENT MANAGEMENT

### A. RESIDENT ELIGIBILITY

- 1. Approved Residents. All Residents must be Families who:
  - a. have Low and Moderate Incomes; and
  - **b.** must be placed in a Residential Unit appropriate to their household size in accordance with the Occupancy Standards. Exceptions may be made for:
    - i. persons designated by mutual agreement between BC Housing and the Provider; or
    - ii. staff or other authorized personnel required to operate and maintain the Development and who are bona fide employees of the Provider. The maximum Income limitation does not apply to this type of tenancy.

### **B. RESIDENT SELECTION**

- 1. Housing Registry. The Provider is encouraged to use The Housing Registry as the primary source of referrals for Resident selection in the Development.
- 2. Discrimination. The Provider will not unlawfully discriminate against any applicant or Resident by reason of race, colour, ancestry, place of origin, religion, marital status, gender, health status, sexual orientation, or age of that applicant or Resident or for any reason otherwise prohibited by statute. Where restricted populations are targeted, the Provider must document its consideration of and compliance with applicable anti-discrimination and human rights legislation and submit that documentation to BC Housing upon request.
- 3. Resident Vacancy Management. The Provider will use all reasonable efforts to maintain full occupancy of the Development, and select Residents with a range of Low and Moderate Incomes, in order to generate sufficient revenue required to operate the Development on a break-even basis.

### C. RESIDENT MANAGEMENT

- Residency Agreements. All Residency Agreements entered into by prospective Residents will be in a form acceptable to BC Housing, in compliance with the *Residential Tenancy Act*, and will contain additional clauses as set out in *Schedule E*, as may be amended by BC Housing from time to time. Residency Agreements will include any addendums requested by BC Housing in a format approved by BC Housing, as may be changed by BC Housing from time to time, including but not limited to crime free housing and pet ownership rules. Residency Agreements are kept on file and long term on-site storage of Residency Agreements is maintained as per applicable law or regulation.
- 2. Landlord and Tenant Relationship. The full normal relationship between landlord and tenant will exist between the Provider and the Resident. It is understood that BC Housing will not be responsible to the Provider for any breach or failure of the Resident to observe any of the terms of the Residency Agreement between the Resident and the Provider, including, but is not limited to:
  - a. the covenant to pay Rent;
  - b. the Provider will not require a Resident to be a member of the Provider;
  - c. minor claims by Residents and third parties are to be managed by the Provider, e.g., claims through the Residential Tenancy Branch;
  - **d.** establish policies and procedures to systematically review complaints and resolve conflicts in a timely manner;
  - e. provide an orientation when Residents enter into their Residency Agreement, including move-in and move-out inspections;
  - f. serve Residents promptly and courteously, with clear and informative communication; and
  - **g.** provide each Resident with access to information concerning that Resident and protect the their privacy.

### SCHEDULE E - RESIDENCY AGREEMENTS

#### A. RESIDENCY AGREEMENTS

The intent of the following provisions will be included in the Residency Agreement between the Provider and the Resident:

- 1. The tenancy is on a month-to-month or a fixed term basis not to exceed six (6) months.
- 2. The Resident's Rent is affordable to that Resident.
- 3. Only the persons named in the Residency Agreement have a right to occupy the Residential Unit as a Resident.
- 4. Prior to occupancy, the Resident agrees to complete a declaration and provide proof of Income and Assets, for all persons occupying the Residential Unit, on a form provided by the Provider.
- 5. Assignment of the Residency Agreement or subletting or otherwise parting with possession of the whole or part of the Residential Unit for the whole or any part of the term of the Residency Agreement is prohibited.
- 6. The Resident consents to BC Housing verifying personal information, as defined in the *Freedom of Information and Protection of Privacy Act*, which consent is required by that *Act* to enable BC Housing to carry out its audit function.
- 7. The Resident agrees to provide such information as is requested by the Provider and/or BC Housing for calculation of the Rent and for auditing purposes. If the Resident fails to disclose or misrepresents any information requested in the Declaration of Income and Assets, such failure to disclose or misrepresentation will be deemed to be a material breach of the Residency Agreement and the following will apply:
  - a. the Provider is entitled to recover from the Resident in contract or otherwise the difference between the Rent charged and the amount of the Rent that should have been charged had there been no failure to disclose or misrepresentation and this remedy is not exclusive and may be exercised by the Provider in addition to any other remedies available to the Provider in law or equity and in addition to any remedies of the Provider as set out in the Residency Agreement;
  - b. money owing by the Resident to the Provider under the Residency Agreement pursuant to a court order or arbitrator's order or otherwise will bear interest at the prime rate of the Royal Bank of Canada from and including the time such money becomes payable, calculated and payable monthly until repayment both before and after judgment; and
  - c. any failure by a Resident to disclose or misrepresent their Income or Assets Resident entitles the Provider to end the Residency Agreement.

### SCHEDULE F - INSURANCE

- A. INSURANCE THE PROVIDER
  - 1. Commercial General Liability Insurance. The Provider will, throughout the term, obtain and maintain:
    - a. Commercial General Liability Insurance protecting the Provider and its employees against claims for personal injury, bodily injury including death, property damage and loss arising from any accident or occurrence in, on or about the Development to an amount of \$10,000,000.00 inclusive for any one occurrence or such greater amount that BC Housing and the Provider, from time to time, may reasonably determine.
    - b. The policy must provide that it cannot be cancelled, terminated or materially amended, except if the insurer delivers to the Provider at least thirty (30) days' prior written notice.
    - c. The policy must include British Columbia Housing Management Commission and Provincial Rental Housing Corporation as additional insured, a cross liability clause, and shall protect them in respect of claims as if they were separately insured applicable to this Agreement.
    - d. The Provider will provide to BC Housing, on request, certified copies of the policy and renewals.
    - e. The Provider will promptly notify BC Housing of any circumstance known to the Provider which might materially affect the coverage under the policy.
    - f. The policy may provide that the amount payable in the event of any loss will be reduced by a deductible in an amount approved by BC Housing. The Provider will be a co-insurer only to the extent of the amount so deducted from the insurance proceeds paid in the event of any loss.
  - 2. Provider Property. BC Housing and PRHC will not be responsible for any loss of property of the Provider related to the Development or otherwise caused by fire, theft, or other perils and the Provider should ensure it carries adequate insurance coverage against such loss.
  - 3. No Representation. Any requirement of advice by BC Housing and PRHC as to the amount of coverage under any policy of insurance does not constitute a representation by BC Housing and PRHC that the amount required is adequate.
  - 4. Workers' Compensation Coverage. The Provider will obtain and maintain, or cause to be obtained and maintained, workers compensation coverage in respect of all workers, employees and other persons engaged in any work in or upon the Development required by the *Workers Compensation Act*.
- B. INSURANCE BC HOUSING
  - 1. Land and Improvements. BC Housing will maintain insurance on the Development against loss by fire, theft and related perils. This insurance may be in accordance with BC Housing's self-insurance fund or by a policy underwritten by a qualified insurer, at BC Housing's discretion.

### SCHEDULE G – PERFORMANCE STANDARDS

The Provider is required to meet the following performance standards for each Development as part of this Agreement:

### A. RISK MANAGEMENT

- 1. Maintain business continuation plan for the organization and for the Development.
- 2. Retain Records on site pertaining to the annual inspection, testing or maintenance of fire protection systems including smoke alarms, and the review of the Fire Safety Plan. Post the annual Fire Inspection Certificate (including any remedial action plans if necessary).
- 3. Comply with all applicable statutory health and safety standards regarding the health and safety of persons at or near the workplace.
- 4. Conduct risk assessments prior to commencing work and ensure that employees and/or contractors follow safe work procedures which control any hazards to the health and safety of persons at the Development.
- 5. Maintain a Fire Safety Plan which includes policies and procedures for:
  - a. control of combustibles around the perimeter of buildings;
  - b. protection of emergency equipment;
  - c. storage and housekeeping;
  - d. laundry lint trap, room and vent cleaning;
  - e. maintenance and servicing of wood burning systems and chimneys; and
  - f. Resident evacuation.

### B. MAINTENANCE

- 1. Grounds keeping
  - a. Landscaping
    - i. Adhere to the Canadian *Landscaping Standards Guide* where applicable. The goal is to maintain good curb appeal, offer an environment that is inviting to Residents, and follow sound landscape management practices.
    - **ii.** Maintain all site vegetation to landscaping standards and regional regulations.
    - iii. Maintain hard surface areas.
    - iv. Facilitate minor landscaping upgrades (e.g., retaining walls, fences, pathways/roadways/parking areas, and minor tree root removal).
    - v. Understand local and provincial requirements for weed and pest control, and modify practices to meet changing requirements. All pesticide use will comply with the safe pesticide application regulations and licensing in accordance with *Workplace Hazardous Materials Information System* (*WHMIS*).
    - vi. Repair and maintain irrigation mechanical systems including seasonal and periodic maintenance.
    - vii. Recommend landscaping improvements or modifications to BC Housing for consideration for capital upgrades.
  - b. Snow & Ice Removal
    - i. Comply with municipal bylaws for snow removal and ice treatment.
    - ii. Maintain common walkways and egresses to meet minimum safety and access requirements for Residents and emergency services.
    - iii. Maintain site surface drainage.
    - iv. Manage ice and snow build-up on building envelope (e.g., roofs, overhangs, and icicle removal).
- 2. Building Maintenance
  - a. Meet standard industry practices to fully utilize the capital asset and to extend the life of the building systems by employing preventative maintenance plans, timely response to maintenance issues, and cost effective and serviceable products.

- **b.** Maintain routine and preventative maintenance programs on the building in compliance with the Maintenance Plan for the Development provided by BC Housing which will include the Maintenance Manuals.
  - i. Exterior maintenance will include roof drain and gutter cleaning, cyclical window washing, care and maintenance of exterior finishes, re-lamp, graffiti removal and identification/elimination of hazards.
  - **ii.** Interior maintenance will include mechanical and electrical systems, HVAC, elevators, interior finishes, containment and identification/elimination of hazards, key storage systems, lock devices, enter-phone systems, fire annunciation and sprinkler systems, video surveillance systems, and alarm systems.
- c. Recommend building improvements or modifications to BC Housing for consideration for capital upgrades.
- d. Comply with government regulated waste management practices.
- e. Provide routine waste removal service (e.g., litter pick-up, abandoned household goods, etc.)
- f. Administer an integrated pest management program to common areas and respond to Resident requirements for Residential Unit specific applications in compliance with current legislation.
- g. Ensure employees and contractors carry out repairs and maintenance in compliance with the *Workers Compensation Act* and other statutory requirements, acquiring environmental or other building assessments by accessing known inventories or through hazmat surveys prior to renovation/repair work.
- 3. Energy Management
  - a. Administer annual and routine inspection of all Residential Units in compliance with *Residential Tenancy Act*, city and municipal bylaws, and cyclical requirements using standardized forms.

### C. HUMAN RESOURCES

- 1. Comply with all employment standards Acts including provisions relating to the hiring of minors, the *Workers Compensation Act*, *Human Rights Code* and other applicable Acts governing employment.
- 2. For all staff working with Residents in the Development, whether part-time or full-time, paid or voluntary, the Provider will:
  - a. have written policies on eligibility, selection, remuneration, training, safety and security. The safety and security policies and procedures must be in accordance with current Occupational Health and Safety Regulations contained under Section 3 of the *Workers Compensation Act* of British Columbia; and
  - b. ensure the staff has the appropriate skills, qualifications, instruction, training and supervision for the tasks that they perform and to work safely.
  - c. Ensure the staff have, at minimum, the following:
    - i. Orientation on the Performance Standards specified in this Agreement; and
    - **ii.** Orientation on the Provider's standards, written policies and procedures related to the management of the Development including health and safety procedures.

### SCHEDULE H -- SCHEDULE OF CAPITAL REPAIRS

At the start of the Term a sample Maintenance and Renewal plan, geared to the general replacement life of items, will be supplied by BC Housing to the Provider. Items may be added or deleted as agreed to between the Provider and BC Housing.

ltem	Number	Unit Cost	Total Cost	Life in Years	Years Left	Year 1	Year 2	Year 3	Year 4	Continue to Year 35
Stoves					-					
Fridges										
Carpets										
Linoleum										
Drapes										
Blinds										
Hot Water Tanks										
Boilers										
Air Conditioner										
Washers										
Dryers										
Furnace										
Interior Paint										
Exterior Paint										
Other:						,				
TOTAL										



# COMMUNITY PARTNERSHIP INITIATIVE OPERATING AGREEMENT

DATED FOR REFERENCE: June 1, 2015

BCH File # 93907-02 / 7202

#### BETWEEN

# THE SOCIETY OF HOUSING OPPORTUNITIES AND PROGRESSIVE EMPLOYMENT #101 - 2055 Benvoulin Court, Kelowna, British Columbia V1W 2C7

(the "Provider")

#### AND

### BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION Suite #1701 - 4555 Kingsway, Burnaby, British Columbia V5H 4V8

("BC Housing")

with respect to the Development at

678 Richter Street, Kelowna, British Columbia

# APPENDIX "B" RTE16-0002

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#### AGREEMENT SUMMARY

#### PART 1 – SUMMARY

- 1. The Provider has leased and constructed the Development under the Community Partnership Initiative, a housing program funded by the Government of British Columbia acting through its agent, BC Housing.
- 2. Provincial Rental Housing Corporation (PRHC) has entered into a Housing Agreement with Rotary Club of Kelowna and City of Kelowna. The Provider agrees to comply with the Housing Agreement.
- 3. PRHC owns the Land, and will enter into a sixty (60)-year Lease Agreement with the Provider for the use of the Development. This Lease Agreement will be registered in the Land Title Office. This Agreement is not to be construed as a substitution for or derogation from the provisions of the Lease Agreement.
- 4. The Development is part of a larger complex which consists of seventy (70) units in total, including:
  - a. fifty (50) Residential Units for Seniors who, at the commencement of residency at the Development, have an Income that is at or below Housing Income Limits, as leased and operated by the Provider under the Community Partnership Initiative. This Development is the specific subject matter of this Agreement; and
  - b. twenty (20) townhouse units for families who, at the commencement of residency have low and moderate income. The Provider and BC Housing will enter into an Investment in Affordable Housing Operator Agreement, dated for reference June 1, 2015, for the management of these twenty (20) units.

### PART 2 – SERVICE DESCRIPTION

- 1. BC Housing and the Provider have agreed that the Provider will lease and operate the Development and collect Rent from the Residents, on the terms and conditions of this Agreement.
- 2. The common goal of the parties in making this Agreement is to provide housing for households who are, at the date of commencement of the residency, have Incomes at or below HILs.
- 3. The Provider is a fully independent self-governing entity registered under the *Society Act*. Operation of the Provider is subject to its Constating Documents and the *Society Act*. The members of the Provider and its governing board are responsible for all affairs of the Provider related to both Provider operations in general and the ongoing management of the Development.
- 4. In entering this Agreement with the Provider, BC Housing recognizes that the Provider has a purpose to construct, hold, manage, provide and maintain an elderly citizens rest home and/or housing for low income families and individuals as defined by the *National Housing Act*.
- 5. BC Housing recognizes that the Provider brings both tangible and intangible assets to the Development. The Provider's board members serve on a voluntary basis, i.e., without recompense for their time and expertise. The Provider and the board bring resources, knowledge and expertise on such things as property management, Resident management and Resident support, and services which specifically relate to the Development and its location.
- 6. The Provider and board are expected to create an environment that is supportive of the needs of the Residents and provide a sense of community within the Development and to that purpose may provide Resident services and activities not funded by this Agreement.

#### PART 3 – AGREEMENT

- 1. TERM. The parties agree as follows for the Term of the Agreement which commences on the day on which the Occupancy Permit is issued for the Development and ends one (1) day prior to the expiry of the Lease Agreement, unless earlier terminated in accordance with the provisions of this Agreement.
- 2. OTHER AGREEMENTS.

#### BC Housing CPI Operating Agreement – Agreement Summary

# APPENDIX "B" RTE16-0002

- a. Under no circumstances will this Agreement survive the expiry or earlier termination of the Lease Agreement.
- b. Should the Investment in Affordable Housing Operator Agreement, as set out in *Agreement Summary, Part 1, Clause 4.b*, be terminated, BC Housing may terminate this Community Partnership Initiative Operating Agreement.
- 3. SCHEDULES. All of the Schedules attached to this Agreement are an integral part of this Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.

No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties except where this Agreement allows for otherwise.

IN WITNESS of which the duly authorized signatories of each of the Provider and BC Housing have executed this Agreement effective as of the Commencement Date of this Agreement:

#### THE SOCIETY OF HOUSING OPPORTUNITIES AND PROGRESSIVE EMPLOYMENT

Per its authorized signatories

0 CT. 20, 2015 Date Signed Signature Ken Zei chief Financial Officer TINPE

Gecotive

Print Name and Title

Signature

1+20,2015

Date Signed

Print Name and Title

#### BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION

Per its authorized signatories

Signature

LUICA

Date Signed

Print Name and Title

Signature

Date Signed

Print Name and Title

#### SCHEDULE A – GENERAL PROVISIONS

#### A. DEFINITIONS

- 1. "Accumulated Operating Revenue" means any surplus accumulated in the course of the Provider's operation of the Development in any year.
- 2. "Commencement Date" means the day on which the Occupancy Permit is issued for the Development.
- 3. "Constating Documents" means the constitution and bylaws of the Provider, together with any amendments, as registered with a Canadian corporate registry.
- 4. "Declaration of Income" means the declaration to be completed by a Resident as evidence of the Income of that Resident.
- 5. "Development" means the a housing development including fifty (50) Residential Units and any associated exclusive and shared common space, constructed and operated by the Provider under this Agreement, and located at 678 Richter Street, Kelowna, British Columbia.
- 6. "Fiscal Year" means the Provider's Fiscal Year, ending on December 31 or as otherwise agreed by the parties.
- 7. "Housing Agreement" means an agreement amongst Provincial Rental Housing Corporation, Rotary Club of Kelowna and City of Kelowna with the intention to serve the public interest by providing for occupancy of a certain number of affordable rental units. This agreement is registered as a section 219 covenant under the Land Title Act with the Land Title office under the registration number of CA4046954.
- 8. "Housing Income Limits" (HILs) represents the maximum income for eligibility to occupy a Residential Unit. This maximum is based on the cost of housing in the local community such that the Resident cannot obtain rental housing in good condition meeting Occupancy Standards without paying more than 30% of Income. This maximum will be established by Canadian Mortgage and Housing Corporation (CMHC). Where CMHC does not establish the HILs, BC Housing will determine same from time to time.
- 9. "Improvements" means those improvements, structures, buildings, fixtures and systems including the heating, ventilating, air-conditioning, plumbing, electrical and mechanical systems and equipment which exist at the Development.
- 10. "Income" means total income before tax from all sources of a Resident.
- 11. "Land" means those lands and premises situated at the Development and legally described as PID 029-429-412 Lot B, District Lot 9, Osoyoos Division Yale District Plan EPP 39552.
- 12. "Lease Agreement" means the lease agreement entered into between Provincial Rental Housing Corporation and the Provider regarding the Development, and will be registered in the Land Title Office.
- 13. "Loan" means the mortgage loan, arranged by BC Housing for the Provider, in order to finance the construction of the Development, as registered with the Land Title Office.
- 14. "Occupancy Permit" is a certificate that must be obtained prior to occupancy that is issued if all required inspections have been carried out and the building or structure is deemed substantially complete and fit for occupancy.
- 15. "Occupancy Standards" means the standards for household sizes of a Resident relative to the number of bedrooms in a Residential Unit. Unless otherwise agreed in writing by BC Housing, the following standards apply:
  - a. No more than two (2) and no less than one (1) person per bedroom.
  - b. Spouses and couples share a bedroom.
  - c. Parents do not share a bedroom with their children.
  - d. Dependents aged eighteen (18) or over do not share a bedroom.
  - e. Dependents of the opposite sex age five (5) or over do not share a bedroom.
- 16. "Operational Review" means the onsite review of the Development operations, as conducted by BC Housing from time to time, in accordance with *Schedule A, Part D*.
- 17. "Provincial Rental Housing Corporation" (PRHC) was created in 1961 under the Business Corporations Act, PRHC owns the provincial assets invested in social

housing stock, and carries out property transactions that add to or reduce the stock of land and buildings, and it leases land to non-profit sponsors for housing projects. PRHC is the land holding company for BC Housing.

- 18. "Record" means accounts, books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical and other means, but does not include a computer program or any other mechanism that produces records.
- 19. "Rent" means the amount a Resident is obliged to contribute monthly to the Provider for a Residential Unit, as set out in *Schedule B*.
- 20. "Replacement Reserve Fund" means an amount the Provider is required to hold in reserve for capital repairs, replacements and improvements pursuant to *Schedule B*, *Part C*, *Clause 1*.
- 21. "Residency Agreement" means an agreement, lease, license or other right of a Resident to occupy a Residential Unit.
- 22. "Resident" means the person or persons legally entitled to reside in a Residential Unit pursuant to a Residency Agreement.
- 23. "Residential Unit" means a self-contained residential dwelling within the Development operated under this Agreement.
- 24. "Schedule of Capital Repairs" means the schedule of capital repairs approved by BC Housing pursuant to Schedule B, Part C, Clause 1.
- 25. "Senior" means a single person aged fifty-five (55) or older, or a couple where at least one (1) person is aged fifty-five (55) or older.
- 26. "Specific Purpose" means the operation of the Development to provide affordable housing for Seniors who, at the date of commencement of the residency, have Incomes at or below HILs.
- 27. "Term" means the period of this Agreement as outlined in Agreement Summary, Part 3, Clause 1.
- B. RESPONSIBILITY OF THE PROVIDER
  - 1. Provider's Acknowledgements. The Provider acknowledges as follows:
    - a. the Provider is entering into this Agreement to own and operate the Development for the Specific Purpose and that its fundamental purpose in doing so is to benefit the public interest; and
    - b. BC Housing's rights and remedies under this Agreement or the Section 219 Covenant granted by the Provider in favour of BC Housing's agent, Provincial Rental Housing Corporation (PRHC), are not to be construed as a penalty or forfeiture.
  - 2. Role of the Provider. The Provider:
    - a. will operate, maintain and manage the Development in a proper, efficient and timely manner as would a prudent owner of similar property, and in accordance with this Agreement; and
    - b. agrees and understands that it is the owner of the Development and as such is solely responsible for all aspects of operating the Development. This includes all legal relationships between the Provider and the applicants, Residents and other occupants of the Development, and any and all contractual relationships with third parties, volunteers, or other invitees. Such relationships are subject to and/or must be in compliance with the *Residential Residency Act, Human Rights Code, Builder's Lien Act, Workers Compensation Act, the Society Act, Employment Standards Act, Personal Information Protection Act, other applicable Acts, applicable tax laws, laws of contract, the common law in general and any successor legislation.*
  - 3. Corporate Organization. The Provider will maintain a well organized corporate structure, and in particular will:
    - a. operate as a non-profit entity;
    - remain a corporation in good standing with the appropriate Canadian corporate registry;

# APPENDIX "B" RTE16-0002

- c. have a purpose that includes the provision of affordable housing and is consistent with the Specific Purpose;
- d. not permit a director or officer to be remunerated except for reimbursement of any expenses necessarily and reasonably incurred by the director or officer while engaged in the affairs of the Provider;
- e. provide for the disposition of assets to an organization with a similar charitable purpose in the event of dissolution or winding up;
- f. not alter its Constating Documents in any way that would make them inconsistent with the terms of this Agreement or that would render the Provider unable to fulfill its obligations under this Agreement; and
- g. provide BC Housing with a copy of the Provider's Constating Documents and any amendments, as requested by BC Housing from time to time.
- 4. Restrictions on Disposition. The Provider will not transfer or sell or agree to transfer or sell or otherwise change or agree to change the legal or beneficial ownership of the Development or any part of the Development without the written approval of BC Housing.
- 5. Maintenance. The Provider will maintain the Development in a state of good repair for the benefit of the Residents and the community in which the Development is located. This includes being compliant with all applicable statutory health and safety standards, observing fire regulations and arranging regular fire inspections by appropriate authorities.
- 6. Compliance. The Provider will remain in compliance with all applicable laws, regulations and corporate or contractual obligations and is responsible for obtaining and complying with all necessary approvals and permits relating to the Development.
- 7. Insurance. The Provider will maintain insurance on the Development, including Commercial General Liability insurance, in sufficient amounts to cover the Development and its operations. The policy must include British Columbia Housing Management Commission as additional insured, a cross liability clause, and shall protect them in respect of claims by the Provider as if they were separately insured applicable to this Agreement.
- 8. Workers Compensation Coverage. The Provider will obtain and maintain, or cause to be obtained and maintained, workers compensation coverage in respect of all workers, employees and other persons engaged in any work in or upon the Development required by the *Workers Compensation Act.*
- 9. Conflict of Interest. The Provider will not, during the Term, perform a service for or provide advice to any person or entity where the performance of such service or the provisions of the advice may, in the reasonable opinion of BC Housing, give rise to a conflict of interest between the obligations of the Provider to BC Housing under this Agreement and the obligations of the Provider to such other person or entity.
- 10. Inspection. The Provider will permit BC Housing to inspect the Development at any reasonable time.
- C. RESPONSIBILITY OF BC HOUSING
  - 1. Role of BC Housing. BC Housing's role is to support the Provider in operating the Development to meet their common goal of providing affordable housing to households with Incomes at or below HILs.
  - 2. Provide Information. BC Housing will provide the information required by the Provider to enable the Provider to carry out its responsibilities under this Agreement, and will provide that information in a timely manner.

#### D. OPERATIONAL REVIEW

- 1. From time to time, BC Housing may conduct an onsite Operational Review to determine compliance with the terms of this Agreement and any other agreements between the Provider and BC Housing.
- 2. BC Housing will provide the Provider with thirty (30) days' written notice of an Operational Review.

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#### E. RECORDS

- 1. Information Management. The Provider will comply with all applicable privacy legislation and will maintain accurate and complete operational Records, policies and practices necessary for its obligations under this Agreement.
- 2. Procedures and Processes. The Provider will:
  - a. notify BC Housing in writing immediately upon becoming aware of any breach of privacy or security involving the unauthorized collection, use, disclosure or destruction of information relating to its obligations under this Agreement;
  - b. if the *Document Disposal Act* (British Columbia) applies to the destruction of Records, notify BC Housing for consultation prior to the destruction; and
  - c. cooperate with BC Housing when BC Housing has a request under the *Freedom* of *Information and Protection of Privacy Act* (British Columbia) to which Records in the Provider's custody apply, by locating and disclosing the relevant Records as directed by BC Housing upon notice and without delay.
- 3. Record Retention. The Provider will retain all Records that pertain to its obligations under this Agreement for the retention period required under applicable provincial and federal laws, but for not less than seven (7) years following the date of receipt or production of those Records.
- 4. Audits. BC Housing and its agents have the right to inspect all Records related to, arising from, or maintained by the Provider to deliver the Provider's obligations, including the right of BC Housing and its agents to enter any premises used by the Provider to deliver the Provider's obligations or used to keep or store Records pertaining to the Provider's obligations under this Agreement, at any time after the delivery of notice to the Provider, and have the immediate right to make extracts from and take copies of those Records. The Provider acknowledges that disclosure to BC Housing and its agents, without consent from the individual the Record is about, for audit purposes, is permitted under information and privacy legislation.
- F. LIABILITY
  - 1. Indemnity by Provider. The Provider will indemnify and save harmless the Provincial Rental Housing Corporation, BC Housing, Her Majesty the Queen in Right of the Province of British Columbia, and each of their ministers, board members, officers, directors, employees and agents, from all claims and costs which they may be liable for or incur, whether before or after this Agreement ends, arising out of any act or omission of the Provider or its officers, directors, employees, agents, contractors or other persons for whom at law the Provider is responsible, related to the Provider's operation and management of the Development under this Agreement, including with respect to any Residency Agreement, except to the extent that such claims or costs are caused by the independent negligence of BC Housing or its employees, agents or contractors.
  - 2. Survival. The obligations set out in Schedule A, Part F, Clause 1 survive termination of this Agreement.

#### G. DISPUTE RESOLUTION

- 1. If a dispute arises between the parties out of or in connection with this Agreement the parties agree that the following dispute resolution process will be used:
  - a. A meeting will be held promptly between the parties, attended by individuals with decision making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.
  - b. If, within fourteen (14) days after such meeting or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties agree to try to resolve the dispute by participating in a structured negotiation conference with a mediator agreed upon by the parties or, failing agreement, under the Commercial Mediation Rules of the British Columbia International Commercial Arbitration Centre, in which case the appointing authority is the British Columbia International Commercial Arbitration Centre.

c. After dispute resolution attempts have been made under Schedule A, Part G, Clause 1.a – b, any remaining issues in dispute will be determined by arbitration under the Commercial Arbitration Act, and the decision of the Arbitrator will be final and binding and will not be subject to appeal on a question of fact, law or mixed fact and law.

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#### H. DEFAULT AND TERMINATION

- 1. Default. If the Provider is in breach of this Agreement, BC Housing will provide written notice to the Provider which sets out the breach and the date by which the breach must be rectified.
- 2. Termination on Continued Default. If the Provider fails to comply with a written notice given in accordance with *Schedule A, Part H, Clause 1* within a reasonable period of time, BC Housing, in its sole discretion, may take such measures as it deems necessary to rectify the deficiencies, which may include but not be limited to the immediate termination of this Agreement, as provided herein.
- 3. Additional Remedies. In an event of a default under this Agreement, BC Housing may, in addition to any other remedy, exercise its rights and remedies under the Section 219 Covenant granted by the Provider in favour of BC Housing's agent, the PRHC.
- 4. Event of Default. Any of the following events will constitute an event of default by the Provider under this Agreement;
  - a. the Provider fails to comply with any provision of this Agreement;
  - b. the Provider ceases to operate on a non-profit basis or otherwise fails to remain in good standing with the appropriate Canadian corporate registry;
  - c. the Provider is in breach of or fails to comply with any applicable law, regulation or permit;
  - the Provider permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof;
  - e. any representation or warranty made by the Provider in accepting this Agreement is found to be untrue or incorrect; and
  - f. if the Provider knew or ought to have known any information, statement, certificate, report or other document furnished or submitted by, or on behalf of, the Provider pursuant to, or as a result of, this Agreement is untrue or incorrect.
- 5. Early Termination. Notwithstanding anything stated to the contrary in this Agreement, the parties agree that BC Housing will have the right at any time, by giving twenty-four (24) hours' written notice to the Provider, to terminate this Agreement in any of the following events:
  - a. the Provider is in default under the Loan or otherwise fails to comply with any of the provisions of the Loan documentation;
  - b. upon the bankruptcy and/or receivership of the Provider;
  - upon willful and persistent breach by the Provider of normal and usual practice of managerial functions which results in any prejudice whatever to BC Housing;
  - d. upon the Provider ceasing to carry out its operations without profit to itself or its members; and
  - e. upon the failure by the Provider to maintain its corporate status and remain in good standing under the applicable laws of the Province of British Columbia.
- 6. Damage or Destruction. If, in the opinion of a professional engineer or architect appointed by the Provider or BC Housing, the Development is damaged or destroyed in excess of twenty-five percent (25%) of its insurable value; BC Housing may terminate this Agreement by delivering written notice of immediate termination to the Provider within thirty (30) days after the date of that damage or destruction.
- 7. Adjustments on Termination. Upon the termination of this Agreement, however effected, the parties will forthwith complete all necessary accounting and adjustments between them to effectively reconcile and finalize their obligations pursuant to this Agreement.

# APPENDIX "B" RTE16-0002

#### 1. GENERAL PROVISIONS AND INTERPRETATION

- 1. Notices. All notices, demands or requests of any kind, which the Provider or BC Housing may be required or permitted to serve on the other in connection with this Agreement, will be in writing and may be served on the parties by registered mail, by telecopied transmission, or by personal service, to the addresses set out on the cover page. Any notice, demand or request made to BC Housing, to be effective, will be addressed to the Non-Profit Portfolio Manager assigned to this matter by BC Housing.
- 2. Change of Address. Either party from time to time, by notice in writing served upon the other party, may designate a different address or different or additional personnel to which all those notices, demands or requests are thereafter to be addressed.
- 3. Assignment. The Provider will not assign its rights or obligations under this Agreement without BC Housing's prior approval. This Agreement will be binding upon BC Housing and its assigns and the Provider, the Provider's successors, and permitted assigns.
- 4. Time. Time is of the essence of this Agreement. If either party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. Any time specified in this Agreement for observing or performing an obligation is local time in Vancouver, British Columbia.
- 5. Governing Law. This Agreement is to be governed by and construed and enforced in accordance with the laws of the Province of British Columbia.
- 6. Validity of Provisions. If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that invalidity, illegality or unenforceability does not affect any other provisions of this Agreement. The balance of the Agreement is to be construed as if that invalid, illegal or unenforceable provision had never been included and is enforceable to the fullest extent permitted at law or at equity.
- 7. Waiver. No consent or waiver, expressed or implied, by a party of any default by the other party in observing or performing its obligations under this Agreement is effective unless given in writing, nor is it a consent or waiver of any other default. Failure on the part of either party to complain of any act or failure to act by the other party or to declare the other party in default, irrespective of how long that failure continues, is not a waiver by that party of its rights under this Agreement or at law or at equity.
- 8. Extent of Obligations and Costs. Every obligation of each party in this Agreement extends throughout the Term. To the extent an obligation ought to have been observed or performed before or upon the expiry or earlier termination of the Term, that obligation, including any indemnity, survives the expiry or earlier termination of the Term until it has been observed or performed.
- 9. Statutes. Any reference in this Agreement to a provincial or federal statute includes the statute as it exists on the reference date of this Agreement and any subsequent amendments or replacements.

#### SCHEDULE B - FINANCIAL

#### A. FUNDING ASSISTANCE FROM BC HOUSING

- 1. Funding. BC Housing will provide financing in the form of a Loan to facilitate the construction of the Development. The terms and conditions of the Loan are outlined separately in the Loan documents. This Agreement is not to be construed as a substitution for or derogation from the provisions of the Loan documents.
- 2. No other Assistance. BC Housing is not committed or obliged to make any other financial contribution to the Provider or to subsidize the ongoing operation of the Development.

#### B. REVENUES AND EXPENSES

- 1. Rent. The Rent for the Residents cannot exceed the lesser of market rent for that unit type in the community or 27% of the Housing Income Limits for the City of Kelowna.
- 2. Revenues. The Provider will be responsible for collecting all Rents and other revenue for the Development, and the Provider will be responsible for paying out of such revenues all costs associated with the operation of the Development.
- 3. Deficit. The Provider will be responsible for any operating shortfalls or extraordinary expenses. Any deficit will not be the responsibility of BC Housing.

#### C. REPLACEMENT RESERVE FUND

- 1. Replacement Reserve Fund. The Provider will prepare a schedule setting out projected capital repairs and improvements over a thirty-five (35)-year period and update it every five (5) years, in the format set out in *Schedule D*. The Provider will also create the Replacement Reserve Fund for capital repairs and replacements to the Improvements on the land in accordance with *Schedule B* as amended by BC Housing from time to time, and the following apply:
  - a. the Provider will set aside \$60.00 per unit per month into the Replacement Reserve Fund; and
  - b. in the event of a deficit, the Provider may request permission from BC Housing to decrease its contribution to the Replacement Reserve Fund until such time that the deficit is remedied. Permission by BC Housing will not be unreasonably withheld.
- 2. Replacement Reserve Fund Expenditure. Replacement Reserve Funds may only be expended as follows:
  - a. to pay for capital repairs and replacements to the Improvements on the land in accordance with the Schedule of Capital Repairs; or
  - b. to make other payments as may be approved by BC Housing.
- 3. Investment of Funds. The Provider will deposit and keep the Replacement Reserve Fund and accumulated interest in securities authorized in accordance with the Provider's Constating Documents, the Society Act, and the Trustee Act.

#### D. ACCUMULATED OPERATING REVENUE

- 1. Accumulated Operating Revenue. The Provider will retain the Accumulated Operating Revenue. The Provider will use the Accumulated Operating Revenue on the following:
  - a. to reduce the Rents payable by the Residents in the Development; or
  - b. on costs relating directly to the Development or the twenty (20) family units as set out in *Agreement Summary, Part 1, Clause 4.b.*

### E. FINANCIAL MANAGEMENT AND ADMINISTRATION

- 1. Finances. The Provider will establish written policies and procedures for effective control of finances for the Development, including;
  - a. record keeping and financial statements in accordance with Canadian Accounting Standards;
  - b. clearly defined spending authority; and
  - c. policies and procedures for arrears, purchasing and investment of Replacement Reserve Funds and Accumulated Operating Revenue.

#### BC Housing CPI Operating Agreement - Schedule B

# APPENDIX "B" RTE16-0002

- 2. Operating Budget. The Provider will prepare an Operating Budget in advance of each Fiscal Year and regularly review financial affairs in accordance with *Schedule B*.
- Revenue. All revenue received by the Provider from whatever source with respect to the Development will be collected by the Provider, held by the Provider and used by the Provider solely for the purpose of and to the extent authorized by this Agreement.
- 4. BC Housing Audit. BC Housing reserves the right to audit the books, records and accounts of the Provider that pertain to its operation of the Development at any reasonable time.
- 5. Submitting Audited Financial Statements. The Provider will submit audited financial statements and a copy of the related auditor's management letter to BC Housing within four (4) months after the end of each Fiscal Year, and the following will apply:
  - a. where the Provider provides services in addition to those provided under this Agreement, the audited financial statement will include a separate Schedule of Revenue and Expenditure for each services provided;
  - b. include details of any funding received from another agency or organization and used by the Provider to co-fund any services provided by the Provider;
  - c. indicate that the Provider has properly funded and maintained the Replacement Reserve Fund, and that all interest accruing to the Replacement Reserve Fund has been recorded; and
  - d. indicate that any Operating Surplus is being spent and accounted for as provided in this Agreement.
- 6. Reporting.
  - a. Every three (3) years the Provider will submit to BC Housing a report using the template provided by BC Housing. The report will include the following:
    - i. current financial statements;
    - ii. current rent levels; and
    - iii. household Incomes at move-in.
  - b. In accordance with the Housing Agreement, on May 1 of each year or at such other times as the City of Kelowna or Rotary Club of Kelowna may reasonably request, the Provider will submit in writing its compliance with the Housing Agreement, and the following will apply:
    - i. the Provider will submit to the City of Kelowna's Director of Community Development or their designate, and Rotary Club of Kelowna;
    - ii. the submission will be in the form of a Statement of Compliance signed by a Certified Professional Accountant for the period ending May 1 of each year;
    - iii. the Statement of Compliance will include confirmation that fifty (50) Residential Units are occupied by Seniors and their Incomes; and
    - iv. the Statement of Compliance will not include personal or financial information identifying individual Residents.

#### SCHEDULE C – RESIDENT SELECTION AND RESIDENCY AGREEMENTS

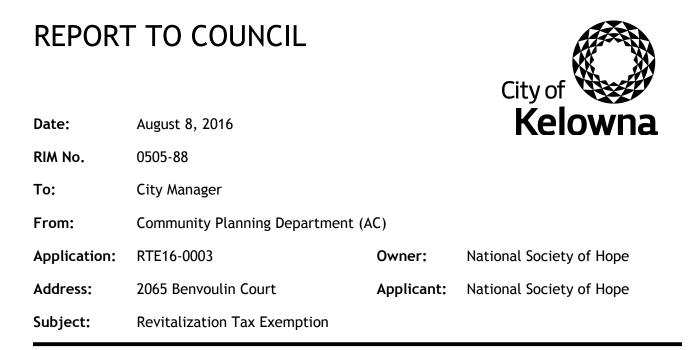
#### A. RESIDENT SELECTION AND RESIDENCY AGREEMENTS

- 1. Landlord and Tenant Relationship. The full normal relationship between landlord and tenant will exist between the Provider and the Resident. It is understood that BC Housing will not be responsible to the Provider for any breach or failure of the Resident to observe any of the terms of the Residency Agreement between the Resident and the Provider, including the covenant to pay Rent.
- 2. Resident Selection. The Provider will select Residents in accordance with the Specific Purpose. The Provider will use all reasonable efforts to maintain full occupancy of the Development with Residents who meet the Specific Purpose, but if there are no applicants for a vacant unit in accordance with the Specific Purpose then the Provider may accept applicants at any income level with the approval of BC Housing which will not be unreasonably withheld. Over time, as operating surpluses permit, the Provider will increase the number of units being offered below market rent/rate.
- 3. Discrimination. The Provider will not unlawfully discriminate against any applicant or Resident by reason of race, colour, ancestry, place of origin, religion, marital status, gender, health status, sexual orientation, or age of that applicant or Resident or for any reason otherwise prohibited by statute. The Provider will comply with all anti-discrimination laws of British Columbia and Canada relating, including the *Canadian Human Rights Act*. Where restricted populations are targeted, the Provider must document its consideration of and compliance with applicable anti-discrimination legislation and submit that documentation to BC Housing on request.
- 4. Full Occupancy. The Provider will use all reasonable efforts to maintain full occupancy of the Development and will notify BC Housing of any extended vacancies.
- 5. Approved Residents. All Residents must be selected in accordance with the Specific Purpose and must be placed in a Residential Unit appropriate to their household size in accordance with the Occupancy Standards. Exceptions may be made for:
  - a. persons designated by mutual agreement between BC Housing and the Provider; or
  - b. staff or other authorized personnel required to operate and maintain the Development and who are bona fide employees of the Provider. The maximum income threshold/limitation does not apply to this type of residency.
- 6. Membership in Provider. The Provider will not require a Resident to be a member of the Provider.
- 7. Residency Agreements. The Provider will enter into a Residency Agreement with each Resident and all Residency Agreements will be in compliance with the *Residential Tenancy Act*.
- 8. Resident Relations. The Provider will establish policies and procedures to:
  - a. select Residents in an open, fair, consistent and non-discriminatory way;
  - b. serve Residents promptly and courteously, with clear and informative communication;
  - c. provide each Resident with access to information concerning that Resident and protect the privacy of Residents; and
  - d. develop an appeals process for Resident related issues. The process must be transparent and accessible for all applicants and Residents.
- 9. Proof of Income. The Provider will obtain a declaration ("Declaration of Income ") and supporting documentation as evidence of the Income of that Resident at the time of the initial occupancy. The declaration will be in a form approved by BC Housing as may be amended by BC Housing from time to time. The Provider will maintain a copy of each Resident's proof of Income in a file available to BC Housing on request.

# SCHEDULE D - SCHEDULE OF CAPITAL REPAIRS

At the start of the Term a sample Maintenance and Renewal plan, geared to the general replacement life of items, will be supplied by BC Housing to the Provider. Items may be added or deleted as agreed to between the Provider and BC Housing.

ltem	Number	Unit Cost	Total Cost	Life in Years	Years Left	Year 1	Year 2	Year 3	Year 4	Continue to Year 35
Stoves										
Fridges										
Carpets										
Linoleum										
Drapes										
Blinds										
Hot Water Tanks							-			
Boilers										
Air Conditioner										
Washers										
Dryers										
Furnace										
Interior Paint										
Exterior Paint										
Other:										
TOTAL										



#### 1.0 Recommendation

THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with National Society of Hope for Lot 1, District Lot 128, ODYD, Plan EPP37196, located on 2065 Benvoulin Court, Kelowna, BC, in the form attached to the report form Community Planning dated August 8, 2016:

AND THAT the Mayor and City Clerk be authorized to execute the Revitalization Tax Exemption Agreement.

#### 2.0 Purpose

To enter into a 10 year Revitalization Tax Exemption Agreement with National Society of Hope in accordance with Revitalization Tax Exemption Program Bylaw No. 9561

#### 3.0 Background

The subject property is designated as MRM - Multiple Unit Residential (Medium Density) in the Official Community Plan (OCP) and is zoned RM5 - Medium Density Multiple Housing. The Building Permit was submitted on September 1, 2015 and was issued by the City. Occupancy for the subject property occurred on December 21, 2015. In addition, the Development Permit and Development Variance Permit for the 78 rental apartments was approved March 18, 2014 by Council under DP13-0195/DVP13-0196.

The project is in the Purpose-Built Rental Housing Projects category as described by the Revitalization Tax Exemption Program Bylaw No. 9561. In this category, projects will be considered for a tax incentive as long as:

- 1. The vacancy rate is at or below 3%
- 2. The subject property has a Housing Agreement (for up to 10 years)
- 3. Are in compliance with the OCP Future Land Use designation as at May 30, 2011.

Over the last few years' rental housing has been in great demand. According to CMHC at the end of 2015 the total vacancy rate in the Kelowna CMA was 0.7% compared to 1.0% the year prior.

Therefore, the vacancy rate requirement is met. The Housing Agreement (for up to 10 years) are met and was approved by Council on April 25, 2016. Lastly, the subject property is in compliance with the OCP Future Land Use designation.

With all requirements met the property is qualified to receive 100% of the Revitalization Amount on the parcel. The exemption will be valid for the tax years 2018-2027.

### 4.0 Internal Circulation:

Revenue Manager, Financial Services

#### 5.0 Existing Policy:

Revitalization Tax Exemption Program Bylaw No. 9561

#### 6.0 Application Chronology:

Date of Application Received: January 26, 2016

Report prepared by:

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Adam Cseke, Planner &	Jenna Ratzlaff, Planner
Approved for Inclusion:	Terry Barton, Urban Planning Manager
Attachments:	

Draft Revitalization Tax Exemption Agreement

Cc: Lynn Walter and Matt Friesen Revenue Branch

BL10566, BL10674 amended SCHEDULE "B" and BL10974 replaced SCHEDULE "B":

SCHEDULE "B" Revitalization Tax Exemption Agreement THIS AGREEMENT dated for reference the  $2i^{s+1}$  day of 2anvary, 2016 is

#### **BETWEEN:**

The National Society of Hope #101 - 2055 Benvoulin Court, Kelowna, BC V1W 2C7 (S-25475)

(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 2065 Benvoulin Court, Kelowna, BC legally described as Lot 1, District Lot 128, ODYD, Plan EPP37196 (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 78 purpose built rental units

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** - Refers to the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the property resulting from the construction or alterations as outlined in section 1 of this agreement;

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 this agreement.

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 obtain a building permit from the City for the Project on or before January 4, 2016;

b. 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" and the Project must be officially opened for use as rental housing (the "Exempt Use") and for no other use, by no later than July 15, 2017;

c. The Owner must submit a copy of the Occupancy Permit and Revitalization Tax Exemption Agreement to the City of Kelowna's Revenue Branch before the City will issue the Tax Exemption Certificate.

d. The completed Project must substantially satisfy the performance criteria set out in Appendix "B" hereto, as determined by the City's Urban Planning Manager or designate, in their sole discretion, acting reasonably.

6. Calculation of Calculation of Revitalization Tax Exemption - the amount of the Tax Exemption shall be equal to:

a) 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 the taxation years 2018 to 2027, inclusive.

#### 8. {deleted}

9. **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.

10. Effect of Stratification - if the Owner stratifies the Parcel or the Project 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, where a Housing Agreement exists in relation to the Parcel or the Project which limits ability to stratify, the Housing Agreement is still complied with.

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.

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, BC V1Y 1J4

Attention: Lynn Walter Fax: 250-862-3391

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

The National Society of Hope #101 - 2055 Benvoulin Court, Kelowna, BC V1W 2C7

Attention: Mr. Ken Zeitner, C.F.O. Fax: 250-868-2399

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 enure 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 The National Society of Hope by its Authorized signatories:

Simla, President Name

Name: Ken Zeitner, Chief Financial Officer

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

#### Schedule "C"

#### Tax Exemption Certificate

In accordance with the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference day  $\ge 1^{\circ \uparrow}$  day of  $\underbrace{\text{Sanvery}}_{\text{Nervey}}$ , 2016 (the "Agreement") entered into between the City of Kelowna (the "City") and The National Society of Hope (the "Owner"), the registered owner(s) of Lot 1, District Lot 128, ODYD, Plan EPP37196 (the "Parcel"):

This certificate certifies that the Parcel is subject to a Revitalization Tax Exemption, for each of the taxation years 2018-2027 inclusive, equal to:

1. Purpose-Built Rental Housing Project, 100% of the Revitalization Amount attributed to Building Permit No. 50805 between 2015 (the calendar year before the commencement of construction of the project) and 2017 (the calendar year in which the Revitalization Tax Exemption Certificate is issued).

Any construction of a new improvement or alteration of an existing improvement, on Parcel described above, undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration;

The maximum Revitalization Tax Exemption authorized must not exceed the increase in the assessed value of improvements on the property resulting from the construction or alteration attributed to Building Perm No. 50805 between 2015 (the calendar year before the commencement of construction of the project) and 2017 (the calendar year in which the Revitalization Tax Exemption Certificate is issued);

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. The Revitalization Tax Exemption is provided under the following conditions:

- 1. The Owner does not breach any term condition or provision of, and performs all obligation set out in, the Agreement and the Bylaw;
- 2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
- 3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
- 4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued;

If any of these conditions are not met then the Council of the City of Kelowna may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, shall remit to the City an amount equal to the value of the exemption received after the date of the cancellation of the certificate.

#### **GENERAL NOTES:**

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- ALL DIVENSIONS ARE MADE FROM EXTERIOR FACE OF WALL SHEATHING TO CENTER OF PARTY WALLS AND INTERPOR WALLS UNDESS NOTED OTHERWISE ON PLAYIS OUTSIDE EDGE OF EXTERIOR WALL SHEATHING TO EN RUBH YITH POWRATHON WALL BELOW, DO NOT SCALE DRAWINGS THE GENERAL CONTRACTOR IS TO CHECK ALL DMENSIONS AND CONFIRM ALL PROPERTY LINE BEARWISS AND DIVENSIONS WITH LEGAL SURVEY.
- W THE CASE OF DISCREPANCY, THE ARCHITECT IS TO BE NOTIFIED BEFORE YIORK CAN COMMENCE, COMMENCEMENT OF CONSTRUCTION SHALL CONSTITUTE ACCEPTANCE OF CONDITIONS AS SATISFACTORY.
- 3. REFER TO MECHANICAL DRAWINGS FOR FINAL PLUMBING AND HVAC LAYOUT AND SPECIFICATIONS.
- 4. REFER TO ELECTRICAL DRAWINGS FOR FINAL LIGHT, OUTLETS AND ELECTRICAL PANEL LOCATIONS AND SPEC.
- 5. REFER TO CIVIL DRAWINGS FOR OFFSITE CONSTRUCTION AND FINAL SITE DRAWAGE LAYOUT AND SPEC. 6. REFER TO LANDSCAPE DRAWINGS FOR FINAL LANDSCAPE LAYOUT.
- 7. REFER TO STRUCTURAL DRAWINGS FOR FINAL WALL/FLOOR ROCF/COLUMN LAYOUT AND SPECIFICATIONS.

ASSURANCE / COMPLIANCE REQUIREMENTS

- I. THE CURRENT B.C.B.C. 2012, ITS REQUIREMENTS AND ALL AGENDA, SHALL FORM AN INTEGRAL PART OF THESE DRAWINGS, ALL CONSTRUCTION MATEPIALS AND PROCEDURES SHALL CONFIRM TO THESE THESE DRAWN STANDARDS.
- 2. ALL WORK TO CONFORM TO LOCAL BYLAWS AND DEVELOPMENT PERMIT REQUIREMENTS.
- ALL DRAWINGS ARE TO BE READ AS A COMPLETE SET IN CONJUNCTION WITH SPECIFICATIONS AND CIVIL STRUCTURAL, MECHANICAL, ELECTRICAL, AND LANDSCAPE DRAWINGS AS APPLICABLE.
- ALL WORK WILL BE SUBJECT TO FIELD REVIEW BY THE ARCHITECT AND OR OTHER REGISTERED PROCESSIONAL AND BY THE CONSULTING ENGRIEDERS NAMED ON THESE DRAWINGS TO MEET THE MUNICIPAL LETTERS OR ASSURANCE FLOOWNENHEITS.
- 5. ALL WORK MUST MEET THE APPROVAL OF THE PROFESSIONAL CONSULTANTS.
- ALL WORK MUST MEET THE STANDARDS OF THE B.C. TRADE ASSOCIATIONS GOVERNING EACH TRADE BWOLVED IN THE PROJECT.
- STARTING YIORK ON THIS FROLECT BY MYY SUB-CONTRACTOR MEANS THAT THE ABOVE RECUREMENTS HAVE BEEN REVIEWED AND NO EXTRACLAM FOR COST WILL BE PUT FORWARD TO MEET THE PROFESSIONAL CONSULTANTS FELD REVIEW REQUIREMENTS.
- THE SUB-CONTRACTORS ARE RESPONSIBLE FOR SITE SAFETY AND TO MEET ALL REQUIREMENTS OF THE WORKERS COMPENSATION BOARD,
- ALL SUB-CONTRACTORS WILL BE REQUIRE TO ACKNOWLEDGE COMPLIANCE WITH ABOVE CONDITIONS BY SIGKING A COPY OF THESE REQUIREMENTS WHICH MUCH ACCOMPANY THEIR OUDTATION.
- GENERAL CONTRACTOR IS TO KEEP RECORD AND PROVIDE ARCHITECT WITH COPIES OF MUNICIPAL INSPECTION SUPS.
- 11. THE CONTRACTOR / CLIENT IS TO INFORM THE ARCHITECT IN YIRITING 24 HOURS PRIOR TO STARTING CONSTRUCTION OF THE PROJECT.
- THE SUB-CONTRACTOR IS TO CHECK ALL DIMENSIONS AFFECTION HIS TRADE AND IN THE CASE OF DISCREPANCY THE CONTRACTOR IS TO BE NOTIFIED BEFORE WORK CAN COMMENCE.
- 13. THE CONTRACTOR IS TO NOTIFY THE ARCHITECT 24 HOURS PRIOR TO A REQUIRED INSPECTION.

#### CONSULTANTS:

BUILDING ENVELOPE AQUA COAST ENGINE 201-5155 LADNER TRUNK ROAD DELTA BC V4K 11V4 TEL. (604) 946-9910 FAX. (604) 946-9914

#### DRAWING INDEX:

PROJECT INFORMATION AND I

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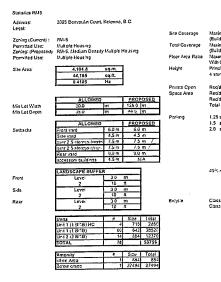


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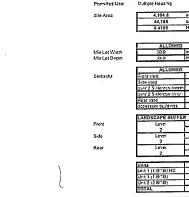


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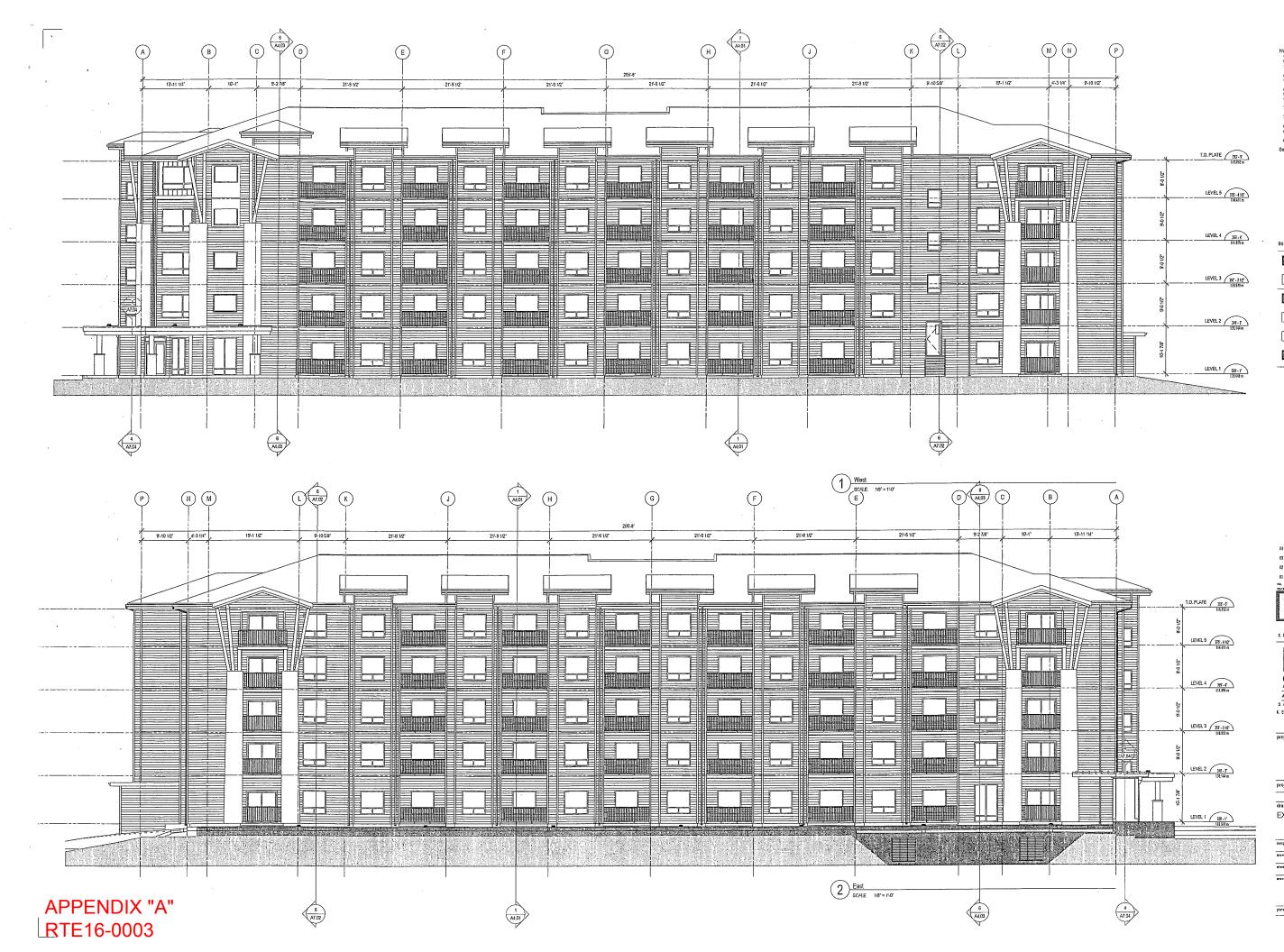
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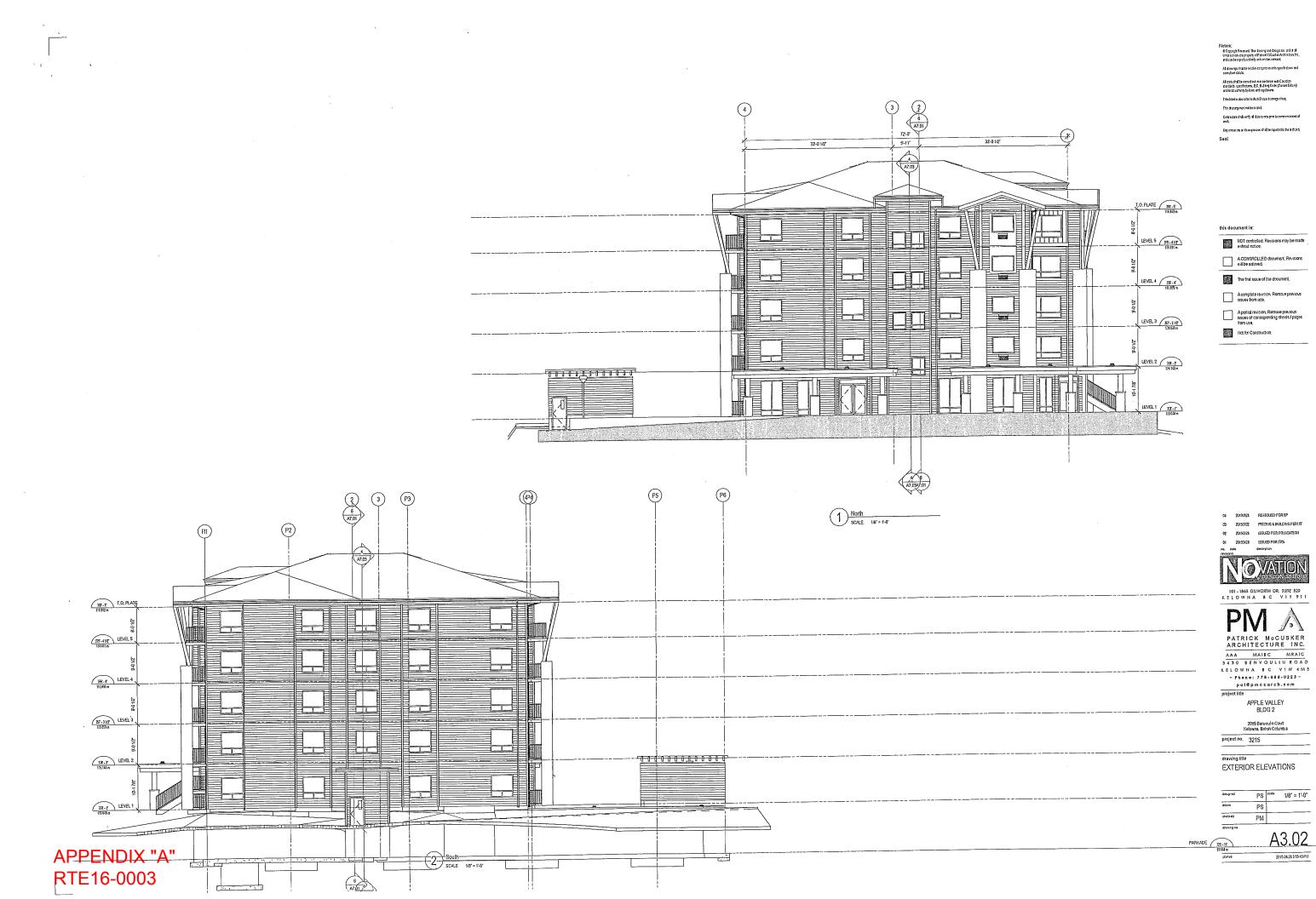
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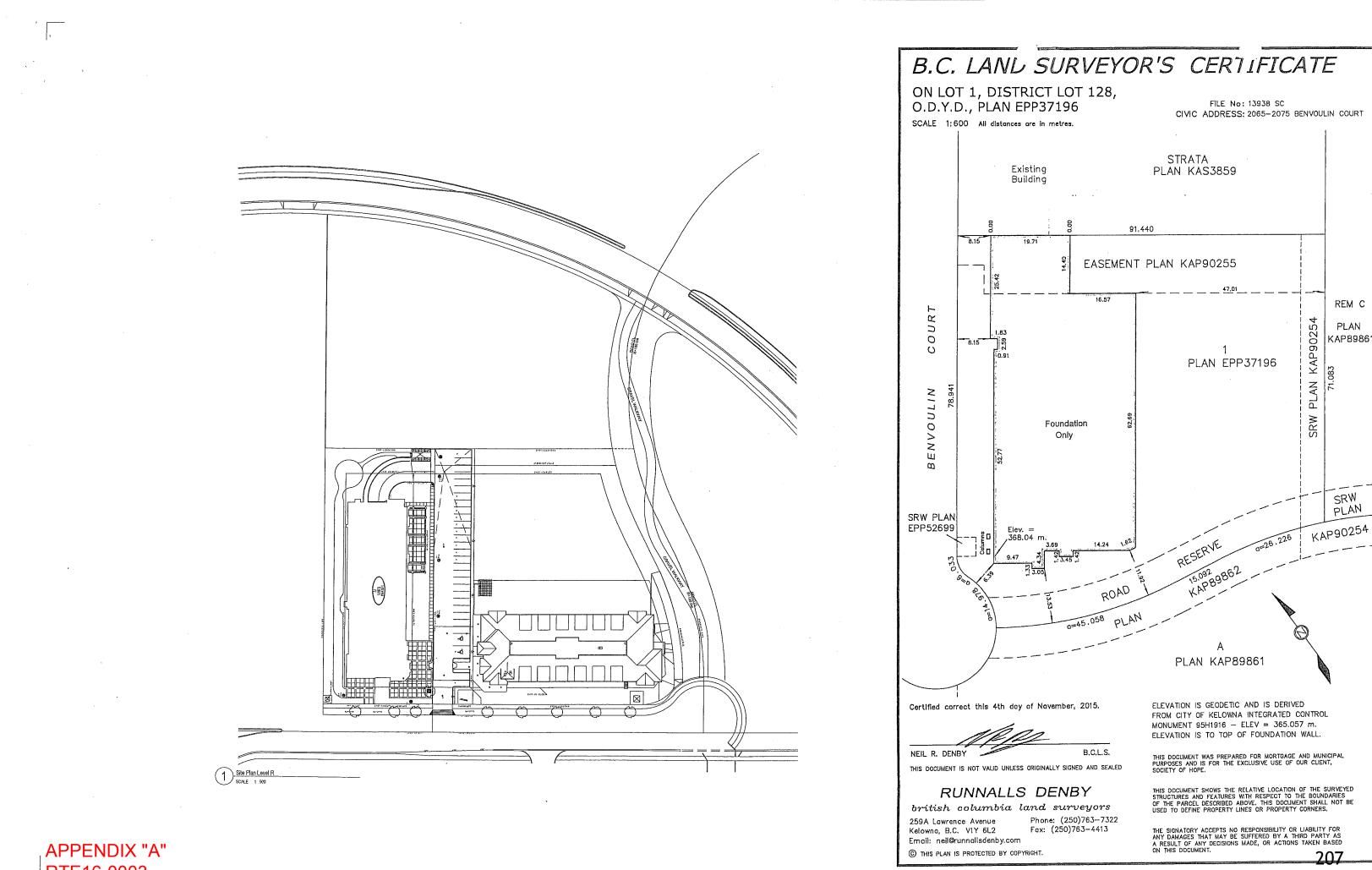
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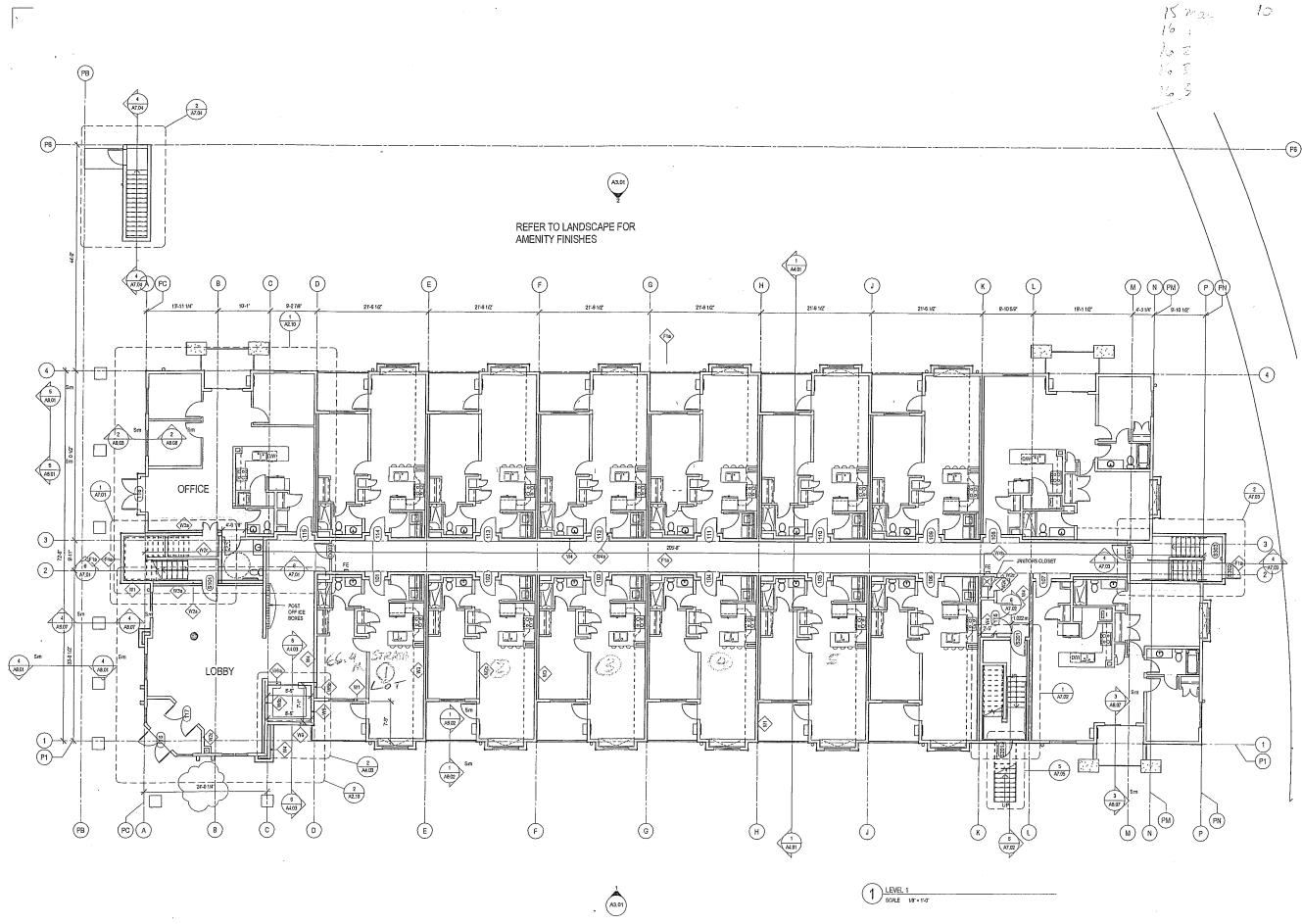




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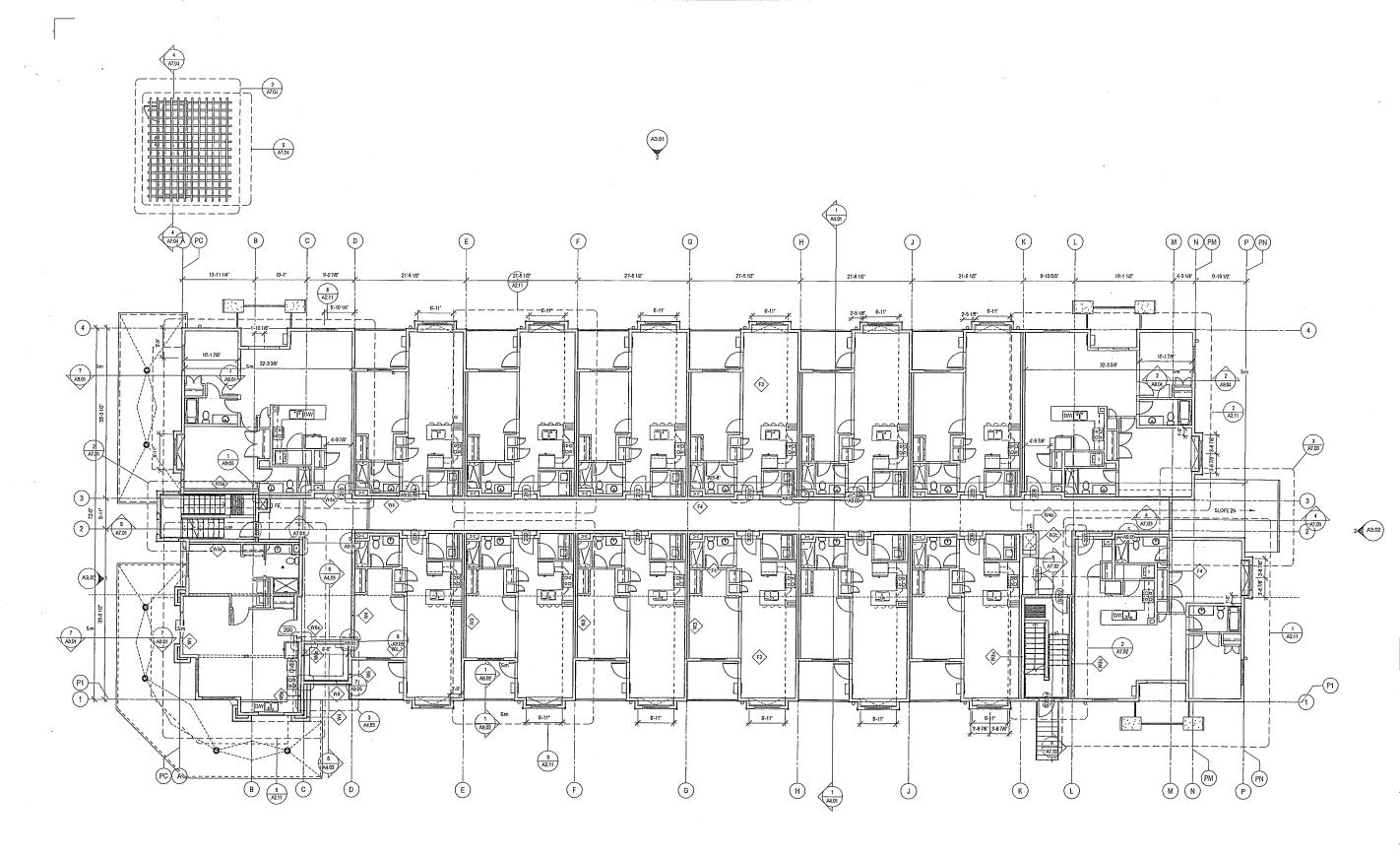
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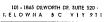
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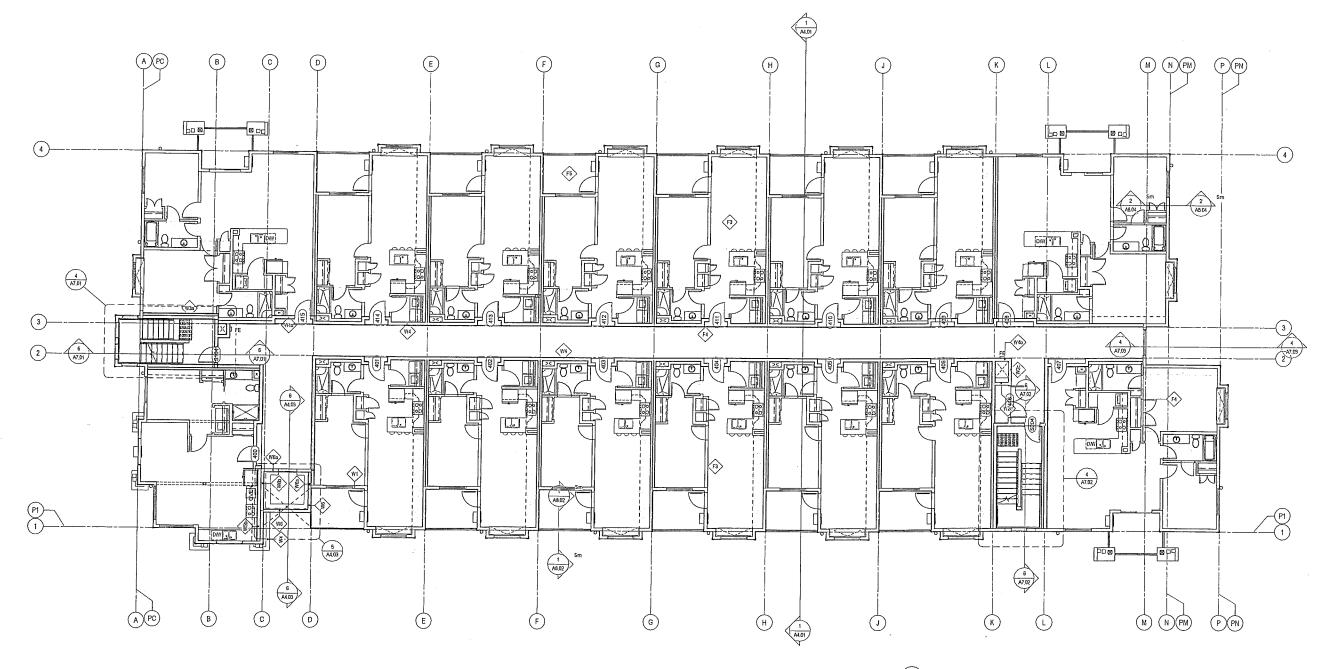
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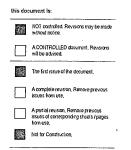
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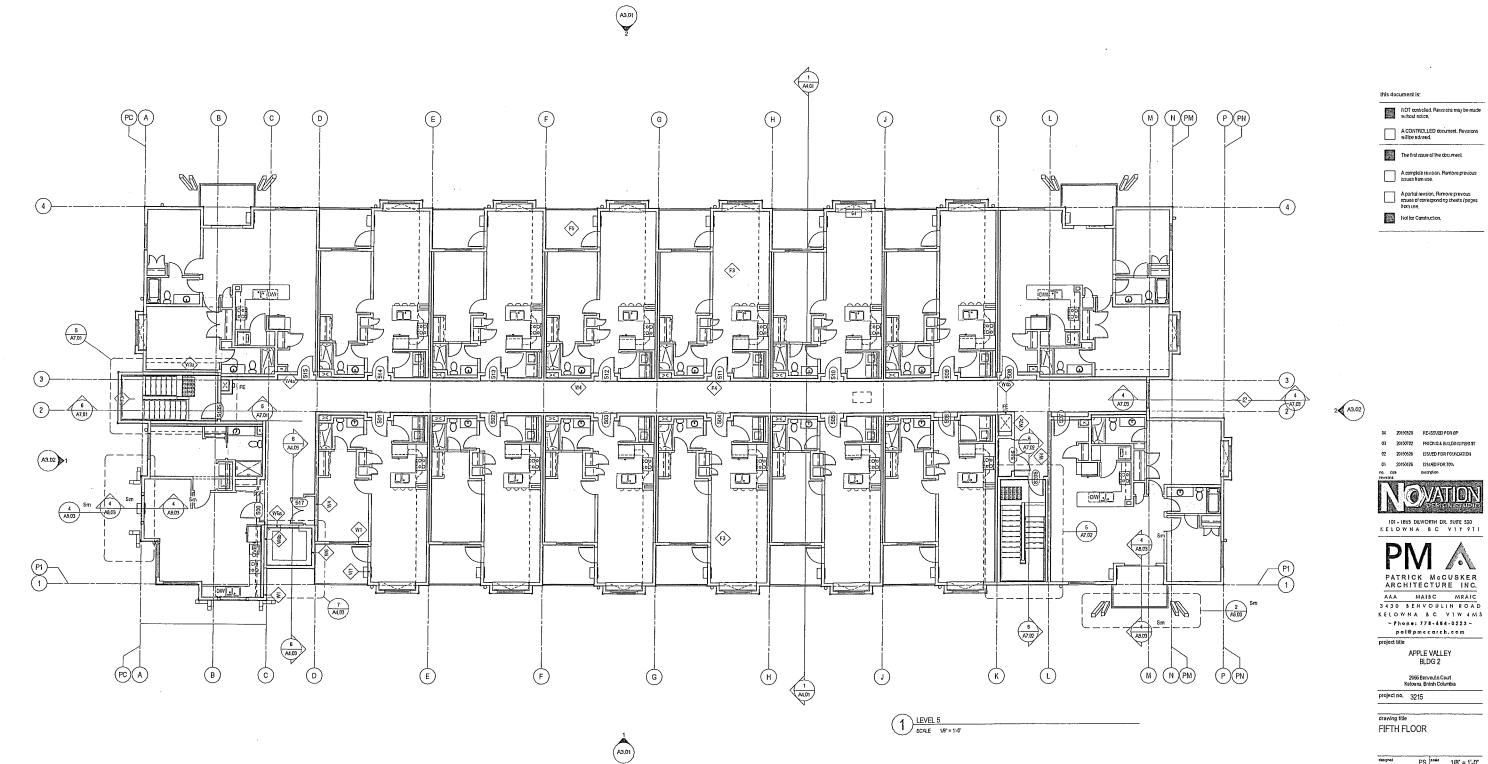
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APPENDIX "A" RTE16-0003

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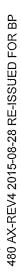
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**APPENDIX "B"** RTE16-0003



# **OPERATING AGREEMENT**

THIS AGREEMENT IS DATED FOR REFERENCE: September 01, 2013

BCH File # :

BETWEEN

(the "Society")

AND

BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION Suite #1701 - 4555 Kingsway, Burnaby, British Columbia V5H 4V8

("BC Housing")

With respect to the housing developments known as

(together the "Development")

# APPENDIX "B" RTE16-0003

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#### AGREEMENT SUMMARY

#### PART 1 - SUMMARY

- 1. The Society has constructed and renovated the Development with financial assistance from the Government of British Columbia acting through its agent, BC Housing. This funding was provided pursuant to a joint federal and provincial funding arrangement, under the 2009 Federal Funding for Economic Stimulus agreement.
- 2. The parties intend that, effective October 01, 2013, ownership of the Development will be transferred from the Provincial Rental Housing Corporation to the Society and the outstanding Loan registered against the Development will be assumed by the Society. If, for any reason, this transfer is prevented from occurring, the parties agree that all necessary modifications will be made to this agreement.
- 3. The Development consists of forty (40) Residential Units for Low Income Seniors and Persons with Disabilities, together with various common areas and ancillary space.

#### PART 2 – SERVICE DESCRIPTION

- 1. BC Housing and the Society have agreed that the Society will own and operate the Development and collect a Resident Rent Contribution from the Residents, on the terms and conditions of this Agreement.
- 2. The common goal of the parties in making this Agreement is to provide affordable and wellmanaged rental housing for Seniors or Persons with Disabilities who have Low Incomes.
- 3. The Society is a fully independent self-governing entity registered under the Society Act [RSBC 1996] Chapter 433 (or successor legislation). Operation of the Society is subject to its Constating Documents and the Society Act. The members of the Society and its governing board are responsible for all affairs of the society related to both society operations in general and the ongoing management of the Development.
- 4. In entering this Agreement with the Society, BC Housing recognizes that the Society was established and has as a purpose and activity, the provision of affordable housing. This provision is explicit and unalterable in the Society's Constitution.
- 5. BC Housing recognizes that the Society brings both tangible and intangible assets to the Development. The Society's board members serve on a voluntary basis, i.e. without recompense for their time and expertise. The Society and the board bring resources, knowledge and expertise on such things as property management, Resident management and Resident support, and services which specifically relate to the Development and its location.
- 6. The Society and board are expected to create an environment that is supportive of the needs of the Residents and provide a sense of community within the Development and to that purpose may provide Resident services and activities not funded by this Agreement.

#### PART 3 – AGREEMENT

- 1. TERM. The parties agree as follows for the Term of this Agreement which will commence on 2 3 and expire on , unless earlier terminated in accordance with the provisions of this Agreement.
- 2. SCHEDULES. All of the Schedules attached to this Agreement are an integral part of this Agreement.
- 3. **PREVIOUS AGREEMENTS**. This Agreement replaces all previous agreements entered into between the Society and BC Housing regarding the Development, including;
  - a. the Society Operator Agreement dated for reference , 2000;
  - b. the Seniors' Rental Housing Initiative Operator Agreement dated for reference
  - c. any incidental arrangements and understandings.

#### BC Housing Operating Agreement – Agreement Summary

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.

No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties except where this Agreement allows for otherwise.

IN WITNESS of which the duly authorized signatories of each of the Society and BC Housing have executed this Agreement effective as of the Commencement Date of this Agreement:

. . .

Per its authorized signatories

Signature

Date Signed

**APPENDIX "B"** 

RTE16-0003

Print Name and Title

Signature

Date Signed

Print Name and Title

#### **BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION**

Per its authorized signatories

Signature

Date Signed

Print Name and Title

Signature

Date Signed

Print Name and Title

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BC Housing Operating Agreement – Schedule A

#### SCHEDULE A – GENERAL PROVISIONS

#### A. DEFINITIONS

- 1. "Accumulated Operating Revenue" means any revenue accumulated in the course of the Society's operation of the Development, year on year.
- 2. "Commencement Date" means the first day of the Term of this Agreement, as outlined in the Agreement Summary, Part 3, Clause 1.
- 3. "Constating Documents" means the constitution and bylaws of a society, including any amendments, registered with a Canadian corporate registry.
- 4. "Declaration of Income and Assets" means the declaration to be completed by a Resident as evidence of the Income and assets of that Resident as set out in *Schedule B, Part B, Clause 2*.
- 5. "Development" means the forty (40) Residential Units owned and operated by the Society at 10230 Bottom Wood Lake Road, Lake Country, British Columbia and legally described as PID 028-297-865 Lot 1 District Lot 118 and of Section 10 Township 20 Osoyoos Division Yale District Plan KAP91215.
- 6. "Fiscal Year" means the fiscal year of the Society, ending on December 31, or as revised after agreement between BC Housing and the Society.
- 7. "Housing Income Limits" (HILs) represents the maximum income for eligibility to be a Rent Geared to Income (RGI) Resident. This maximum is based on the cost of housing in the local community such that the Resident cannot obtain rental housing in good condition meeting Occupancy Standards without paying more than 30% of Income. This maximum will be established by BC Housing from time to time.
- 8. "Improvements" means those improvements, structures, buildings, fixtures and systems which exist within the Development from time to time including the heating, ventilating, air-conditioning, plumbing, electrical and mechanical systems and equipment.
- 9. "Income" of a Resident means the total income before income tax from all sources of the Resident.
- **10.** "Loan" means the mortgage registered against the title for the Development, that has been assumed by the Society.
- **11.** "Low Income" means that a person is on, or is eligible to be on, a waiting list for social housing and has a household income that is at or below HILs.
- **12.** "Occupancy Standards" means the standards for household sizes of a Resident relative to the number of bedrooms in a Residential Unit. Unless otherwise agreed in writing by BC Housing, the following standards apply:
  - a. No more than two (2) and no less than one (1) person per bedroom.
  - **b.** Spouses and couples share a bedroom.

. . . .

- c. Parents do not share a bedroom with their children.
- d. Dependents aged eighteen (18) or over do not share a bedroom.
- e. Dependents of the opposite sex age five (5) or over do not share a bedroom
- **13.** "Operating Budget" means the annual budget for the Development prepared by the Society. The Operating Budget will not include any expenses for the Development paid for directly by BC Housing as set out in this Agreement.
- **14.** "Operational Review" means the onsite review of the Development operations, as conducted by BC Housing from time to time, in accordance with *Schedule C, Part B*.
- **15.** "**Persons with Disabilities**" means a single person in receipt of a recognized disability pension, or a couple where at least one person is in receipt of a recognized disability pension, or are considered disabled for income tax purposes. Recognized disability pensions include disability tax credits, Long Term Disability payments, Workers Compensation Board disability payments, Canada Pension Plan disability payments, and Ministry of Housing and Social Development payments for persons with disabilities and/or persistent multiple barriers.
- 16. "Provincial Rental Housing Corporation" (PRHC) is incorporated under the *Business Corporations Act* [SBC 2002] Chapter 57 (or successor legislation). PRHC is the land holding corporation for provincially owned social housing. BC Housing administers PRHC, which buys,

**APPENDIX "B"** 

RTE16-0003

#### BC Housing Operating Agreement – Schedule A

holds and disposes of properties, and leases residential properties to non-profit societies and co-operatives.

- **17.** "**Replacement Reserve Fund**" means an amount the Society is required to hold in reserve for capital repairs, replacements and improvements pursuant to *Schedule B, Part C, Clause 1*.
- **18.** "Residency Agreement" means an agreement, lease, license or other right of a Resident to occupy a Residential Unit.
- **19.** "**Resident**" means the person or persons legally entitled to reside in a Residential Unit pursuant to a Residency Agreement.
- 20. "Residential Unit" means a self-contained residential dwelling within the Development.
- 21. "Resident Rent Contribution" means the amount a Resident is obliged to contribute monthly to the Society for a Residential Unit.
- 22. "Schedule of Capital Repairs" means the schedule of capital repairs prepared by the Society pursuant to Schedule B, Part C, Clause 1.
- **23.** "Senior" means a single person aged fifty-five (55) or older, or a couple where at least one person is aged fifty-five (55) or older.
- 24. "Specific Purpose" means the operation of the Development to provide affordable residential accommodation for Seniors or Persons with Disabilities who have Low Incomes.
- 25. "Term" means the period set out in Agreement Summary, Part 3 Clause 1.

#### B. RESPONSIBILITY OF THE SOCIETY

- 1. Society's Acknowledgements. The Society acknowledges as follows:
  - a. the Society is entering into this Agreement to own and operate the Development for the Specific Purpose and that its fundamental purpose in doing so is to benefit the public interest; and
  - **b.** BC Housing's rights and remedies under this Agreement are not to be construed as a penalty or forfeiture.
- 2. Role of the Society. The Society:
  - a. will operate, maintain and manage the Development in a proper, efficient and timely manner as would a prudent owner of similar property, and in accordance with this Agreement; and
  - b. agrees and understands that it is the owner of the Development and as such is solely responsible for all aspects of operating the Development. This includes all legal relationships between the Society and the applicants, Residents and other occupants of the Development, and any and all contractual relationships with third parties, volunteers, or other invitees. Such relationships are subject to the *Residential Tenancy Act* [SBC 2002] Chapter 78 (or successor legislation), *Human Rights Code* [RSBC 1996] Chapter 210 (or successor legislation), *Builder's Lien Act* [SBC 1997] Chapter 45 (or successor legislation), *Builder's Lien Act* [SBC 1996] Chapter 492 (or successor legislation), *the Society Act, Employment Standards Act* [RSBC 1996] Chapter 113 (or successor legislation), *Personal Information Protection Act* [SBC 2003] Chapter 63 (or successor legislation), other applicable Acts, applicable tax laws, laws of contract and the common law in general.
- 3. Corporate Organization. The Society will establish a well-organized corporate structure, and, in particular, will:
  - a. operate as a non-profit entity;

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- b. remain a corporation in good standing under the Society Act;
- c. have a purpose that includes the provision of affordable housing and is consistent with the Specific Purpose:
- **d.** not permit a director or officer to be remunerated except for reimbursement of any expenses necessarily and reasonably incurred by the director or officer while engaged in the affairs of the Society;
- e. not alter its Constating Documents in any way that would make them inconsistent with the terms of this Agreement or that would render the Society unable to fulfill its obligations under this Agreement; and
- f. provide BC Housing with a copy of the Society's Constating Documents and any amendments, as requested by BC Housing from time to time

### APPENDIX "B" RTE16-0003

#### BC Housing Operating Agreement – Schedule A

- 4. Restrictions on Disposition. The Society will not transfer or sell or agree to transfer or sell or otherwise change or agree to change the legal or beneficial ownership of the Development or any part of the Development without the written approval of BC Housing.
- 5. Maintenance. The Society will maintain the Development in a state of good repair for the benefit of the Residents and the community in which the Development is located. This includes being compliant with all applicable statutory health and safety standards, observing fire regulations and arranging regular fire inspections by appropriate authorities.
- 6. Compliance. The Society will remain in compliance with all applicable laws, regulations and corporate or contractual obligations and is responsible for obtaining and complying with all necessary approvals and permits relating to the Development.
- 7. Insurance. The Society will maintain insurance on the Development, including Commercial General Liability insurance, in sufficient amounts to cover the Development and its operations. The policy must include British Columbia Housing Management Commission as an additional insured, a cross liability clause, and shall protect them in respect of claims by the Society as if they were separately insured applicable to this Agreement.
- 8. Workers' Compensation Coverage. The Society will obtain and maintain, or cause to be obtained and maintained, workers compensation coverage in respect of all workers, employees and other persons engaged in any work in or upon the Development required by the *Workers Compensation Act*.
- 9. Conflict of Interest. The Society will not, during the Term, perform a service for or provide advice to any person or entity where the performance of such service or the provisions of the advice may, in the reasonable opinion of BC Housing, give rise to a conflict of interest between the obligations of the Society to BC Housing under this Agreement and the obligations of the Society to such other person or entity.
- **10. Inspection**. The Society will permit BC Housing to inspect the Development at any reasonable time.

#### C. RESPONSIBILITY OF BC HOUSING

- 1. Role of BC Housing. BC Housing's role is to support the Society in operating the Development to meet their common goal of providing affordable housing to Low Income households.
- 2. Provide Information. BC Housing will provide the information required by the Society to enable the Society to carry out its responsibilities under this Agreement, and will provide that information in a timely manner.

#### D. RECORDS

- 1. Information Management. The Society will maintain adequate operational records for the Development and will:
  - a. collect, create and retain records in relation to Residents as required by this Agreement and in accordance with the requirements of the *Personal Information Protection Act*; and
  - **b.** treat as confidential all information or material provided to the Society, or any subcontractor, by BC Housing, by Residents, or by third parties if the information concerns Residents and is relevant to this Agreement.
- 2. Retention and Disclosure. The Society will retain and disclose documents in accordance with the following:
  - a. the Society will retain all documents, vouchers, records and accounts that pertain to the Development for not less than seven (7) years following the date of receipt or production of those records; and
  - b. in accordance with BC Housing's obligations pursuant to the Freedom of Information and Protection of Privacy Act [RSBC 1996] Chapter 165 (or successor legislation) and the Society's obligations under the Personal Information Protection Act, the Society will, upon request:

#### BC Housing Operating Agreement – Schedule A

- APPENDIX "B" RTE16-0003
- i. disclose to a Resident the Society's file for the Resident, subject to removing information to protect third parties according to the principles of those Acts; and
- **ii.** disclose to third parties only that information that BC Housing would be compelled to disclose according to the principles of those Acts.
- 3. Access to Records. The Society will permit BC Housing to access records pertaining to the Development as follows:
  - a. BC Housing or its agents may inspect all records maintained by the Society for the Development, after giving reasonable notice, at any time during regular business hours and may make extracts from and take photocopies of those records.
  - **b.** The Society will supply to BC Housing, for statistical purposes and on a form provided by BC Housing, such information as is requested by BC Housing.
  - **c.** On request, upon reasonable notice, the Society will make available to BC Housing any records or information created or received under the terms of this Agreement that are subject to an access to information request made under the *Freedom of Information and Protection of Privacy Act.*
  - d. The Society will make available to BC Housing or persons designated by BC Housing all documents, books, records and accounts pertaining to the cost of construction, acquisition, improvement, conversion or operation of the Development or other records and information submitted by a Resident to support their occupancy in the project at any reasonable time.
  - e. Upon termination of this Agreement, the Society will return all BC Housing documents and records to BC Housing.

#### E. LIABILITY

- 1. Indemnity by Society. The Society will indemnify and save harmless BC Housing, Her Majesty the Queen in Right of the Province of British Columbia, and each of their ministers, board members, officers, directors, employees and agents, from all claims and costs which they may be liable for or incur, whether before or after this Agreement ends, arising out of any act or omission of the Society or its officers, directors, employees, agents, contractors or other persons for whom at law the Society is responsible, related to the Society's operation and management of the Development under this Agreement, including with respect to any Residency Agreement, except to the extent that such claims or costs are caused by the independent negligence of BC Housing or its employees, agents or contractors.
- 2. Survival. The obligations set out in Schedule A, Part E, Clause 1 survive termination of this Agreement.

#### F. DISPUTE RESOLUTION

- 1. If a dispute arises between the parties out of or in connection with this Agreement the parties agree that the following dispute resolution process will be used:
  - a. A meeting will be held promptly between the parties, attended by individuals with decision making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.
  - b. If, within fourteen (14) days after such meeting or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties agree to try to resolve the dispute by participating in a structured negotiation conference with a mediator agreed upon by the parties or, failing agreement, under the Commercial Mediation Rules of the British Columbia International Commercial Arbitration Centre, in which case the appointing authority is the British Columbia International Commercial Arbitration Centre.
  - c. After dispute resolution attempts have been made under Schedule A, Part F, Clause 1.a b, any remaining issues in dispute will be determined by arbitration under the Commercial Arbitration Act [RSBC 1996] Chapter 55 (or successor legislation), and the decision of the Arbitrator will be final and binding and will not be subject to appeal on a question of fact, law or mixed fact and law.

#### G. DEFAULT AND DAMAGE

- 1. Default. If, in the opinion of BC Housing, the Society is in breach of this Agreement, BC Housing will provide written notice to the Society which sets out the breach and the date by which the breach must be rectified.
- 2. Termination on Continued Default. If the Society fails to comply with a written notice given in accordance with *Schedule A, Part G, Clause 1* within a reasonable period of time, BC Housing, in its sole discretion, may take such measures as it deems necessary to rectify the deficiencies, which may include but not be limited to the immediate termination of this Agreement, as provided herein.
- **3.** Event of Default. Any of the following events will constitute an event of default by the Society under this Agreement;
  - a. the Society fails to comply with any provision of this Agreement;
  - **b.** the Society ceases to operate on a non-profit basis or otherwise fails to remain in good standing under the *Society Act*;
  - c. the Society is in breach of or fails to comply with any applicable law, regulation or permit;
  - **d.** the Society permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof;
  - e. any representation or warranty made by the Society in accepting this Agreement is found to be untrue or incorrect; and
  - f. if the Society knew or ought to have known any information, statement, certificate, report or other document furnished or submitted by, or on behalf of, the Society pursuant to, or as a result of, this Agreement is untrue or incorrect.
- 4. Early Termination. Notwithstanding anything stated to the contrary in this Agreement, the parties agree that BC Housing will have the right at any time, by giving twenty-four (24) hours' written notice to the Society, to terminate this Agreement in any of the following events:
  - a. the Society is in default under the Loan or otherwise fails to comply with any of the provisions of the Loan documentation;
  - b. upon the bankruptcy and/or receivership of the Society;
  - c. upon willful and persistent breach by the Society of normal and usual practice of managerial functions which results in any prejudice whatever to BC Housing;
  - **d.** upon the Society ceasing to carry out its operations without profit to itself or its members; and
  - e. upon the failure by the Society to maintain its corporate status and remain in good standing under the applicable laws of the Province of British Columbia.
- 5. Damage or Destruction. If, in the opinion of a professional engineer or architect appointed by the Society or BC Housing, the Development is damaged or destroyed in excess of twenty-five percent (25%) of its insurable value; BC Housing may terminate this Agreement by delivering written notice of immediate termination to the Society within thirty (30) days after the date of that damage or destruction.
- 6. Adjustments on Termination. Upon the termination of this Agreement, however effected, the parties will forthwith complete all necessary accounting and adjustments between them to effectively reconcile and finalize their obligations pursuant to this Agreement.

#### H. GENERAL PROVISIONS AND INTERPRETATION

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- 1. Notices. All notices, demands or requests of any kind, which the Society or BC Housing may be required or permitted to serve on the other in connection with this Agreement, will be in writing and may be served on the parties by registered mail, by telecopied transmission, or by personal service, to the addresses set out on page one.
- 2. Change of Address. Either party from time to time, by notice in writing served upon the other party, may designate a different address or different or additional personnel to which all those notices, demands or requests are thereafter to be addressed. Any notice, demand or request made to BC Housing, to be effective, will be addressed to the Vice President, Operations.
- **3.** Assignment. The Society will not assign its rights or obligations under this Agreement without BC Housing's prior approval. This Agreement will be binding upon BC Housing and its assigns and the Society, the Society's successors, and permitted assigns.

#### BC Housing Operating Agreement – Schedule A

- 4. Time. Time is of the essence of this Agreement. If either party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. Any time specified in this Agreement for observing or performing an obligation is local time in Vancouver, British Columbia.
- 5. Governing Law. This Agreement is to be governed by and construed and enforced in accordance with the laws of the Province of British Columbia.
- 6. Validity of Provisions. If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that invalidity, illegality or unenforceability does not affect any other provisions of this Agreement. The balance of the agreement is to be construed as if that invalid, illegal or unenforceable provision had never been included and is enforceable to the fullest extent permitted at law or at equity.
- 7. Waiver. No consent or waiver, expressed or implied, by a party of any default by the other party in observing or performing its obligations under this Agreement is effective unless given in writing, nor is it a consent or waiver of any other default. Failure on the part of either party to complain of any act or failure to act by the other party or to declare the other party in default, irrespective of how long that failure continues, is not a waiver by that party of its rights under this Agreement or at law or at equity.
- 8. Extent of Obligations and Costs. Every obligation of each party in this Agreement extends throughout the Term. To the extent an obligation ought to have been observed or performed before or upon the expiry or earlier termination of the Term, that obligation, including any indemnity, survives the expiry or earlier termination of the Term until it has been observed or performed.
- **9. Statutes**. Any reference in this Agreement to a provincial or federal statute includes the statute as it exists on the reference date of this Agreement and any subsequent amendments or replacements.

APPENDIX "B" RTE16-0003

#### SCHEDULE B – FINANCIAL

#### A. FUNDING ASSISTANCE FROM BC HOUSING

- 1. **Funding.** BC Housing has provided financial assistance towards the construction and renovation of the Development.
- 2. Fixed Subsidy. BC Housing will pay the society a fixed monthly subsidy amount of \$ This fixed subsidy may be used by the Society only to make principle and interest repayments required to repay the outstanding Loan registered against the Development and for property tax payments, including water and sewer charges. This fixed subsidy will end at the earlier occurrence of either;
  - a. the date upon which the Loan is fully amortized; or
  - b. the expiry or earlier termination of this Agreement.
- **3.** No Other Funding. BC Housing is not committed or obliged to make any other financial contribution to the Society or to subsidize the ongoing operation of the Development.

#### B. RENT

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- 1. **Rent.** All eligible Residents occupying a Residential Unit at the Development will pay a Resident Rent Contribution that is geared to income, as outlined in the BC Rent Scale in *Schedule E*.
- 2. Proof of Income and Assets. The Society will follow BC Housing's rent calculation policies and procedures as may be changed from time to time. The Society will obtain a declaration of Income and Assets and supporting documentation as evidence of the Income and assets of that Resident at the time of the initial occupancy and annually thereafter to determine the Resident Rent Contribution. The declaration will be in a form approved by BC Housing as may be amended from time to time. The Society will maintain a copy of each Resident's proof of Income in a file available to BC Housing on request. NB: Those Residents in receipt of income assistance, whose rent is paid directly to the Society by the Ministry responsible for income assistance, are not required to provide an annual declaration.
- 3. Change in Household Composition. The Society will adjust the Resident Rent Contribution to reflect changes in household composition whenever such change occurs.
- 4. Rent Rolls. From time to time, BC Housing may request rent rolls for the Development and the Society will provide this information to BC Housing within sixty (60) days of the request.
- 5. Revenues. The Society will be responsible for collecting all Residential Rent Contributions and other revenue for the Development, and the Society will be responsible for paying out of such revenues all costs associated with the operation of the Development, including Loan repayments.
- 6. Deficit. The Society will be responsible for any operating shortfalls or extraordinary expenses. Any deficit will not be the responsibility of BC Housing.

#### C. REPLACEMENT RESERVE FUND

- 1. Replacement Reserve Fund. The Society will prepare a Schedule of Capital Repairs setting out projected capital repairs and improvements to the Development over a thirty (30) year period. It will also create a Replacement Reserve Fund for capital repairs and replacements to the improvements on the land.
- 2. Replacement Reserve Fund Expenditure. Replacement Reserve Funds may only be expended as follows:
  - a. to pay for capital repairs and replacements to the improvements on the land in accordance with the Schedule of Capital Repairs; or
  - **b.** to make other payments as may be approved by BC Housing.
- 3. Investment of Funds. The Society will deposit and keep the Replacement Reserve Fund and accumulated interest in an account insured by the Canadian Deposit Insurance Corporation or by the Credit Union Deposit Insurance Corporation.

#### BC Housing Operating Agreement – Schedule B

#### D. ACCUMULATED OPERATING REVENUE

- 1. Accumulated Operating Revenue. The Society will retain the Accumulated Operating Revenue. The Society will use the Accumulated Operating Revenue on the following:
  - a. on costs relating directly to the Development; or
  - **b.** other payments as approved by BC Housing.

#### E. FINANCIAL MANAGEMENT

- 1. **Finances**. The Society will establish written policies and procedures for effective control of finances for the Development, including:
  - a. record keeping and financial statements in accordance with Canadian Generally Accepted Accounting Principles;
  - b. clearly defined spending authority; and
  - c. policies and procedures for arrears, purchasing and the investment of Replacement Reserve Funds and Accumulated Operating Revenue.
- 2. Operating Budget. The Society will prepare an Operating Budget in advance of each Fiscal Year and regularly review its financial affairs in accordance with Schedule B. Upon request, the Society will submit the Operating Budget to BC Housing for review.
- 3. Revenue. All revenue received by the Society from whatever source with respect to the Development will be collected by the Society, held by the Society and used by the Society solely for the purpose of and to the extent authorized by this Agreement.
- BC Housing Audit. BC Housing reserves the right to audit the books, records and accounts
  of the Society that pertain to its operation of the Development at any reasonable time.

APPENDIX "B"

RTE16-0003

#### SCHEDULE C – MONITORING AND REPORTING

#### A. REPORTING

- Annually, the Society will submit to BC Housing a list showing for each housing unit: address, age of Residents, household income at move-in, move-in date, and current rent. The Society will provide an audited copy of its annual financial statements upon request, in a format provided by BC Housing.
- 2. In addition to the above, the Society will submit to BC Housing, every five (5) years, an updated maintenance plan and Schedule of Capital Repairs.

#### **B. OPERATIONAL REVIEW**

- 1. From time to time, BC Housing may conduct an Operational Review to determine compliance with the terms of this Agreement and any other agreements between the Society and BC Housing. The Operational Review will include a review of:
  - a. financial statements and rent levels against operating costs;
  - **b.** Replacement Reserve Fund levels and schedule to ensure adequacy, and to recommend an action plan if required;
  - c. maintenance of the Development and the progress of necessary repairs and replacement plan;
  - d. capital repairs and replacements against the Schedule of Capital Repairs; and
  - e. the building condition.
- 2. BC Housing will provide the Society with at least two (2) months' written notice of an Operational Review.

APPENDIX "B" RTE16-0003

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APPENDIX "B"

#### SCHEDULE D – RESIDENT ELIGIBILITY AND RESIDENCY AGREEMENTS

#### A. RESIDENT SELECTION AND RESIDENCY AGREEMENTS

- 1. Landlord and Resident Relationship. The full normal relationship between landlord and tenant will exist between the Society and the Resident. It is understood that BC Housing will not be responsible to the Society for any breach or failure of the Resident to observe any of the terms of the Residency Agreement between the Resident and the Society, including the covenant to pay Rent.
- Resident Selection. The Society will select Residents in accordance with the Specific Purpose. The Society will use all reasonable efforts to maintain full occupancy of the Development with Residents who meet the Specific Purpose and will notify BC Housing of any extended vacancies.
- 3. Discrimination. The Society will not unlawfully discriminate against any applicant or Resident by reason of race, colour, ancestry, place of origin, religion, marital status, gender, health status, sexual orientation, or age of that applicant or Resident or for any reason otherwise prohibited by statute. Where restricted populations are targeted, the Society must document its consideration of and compliance with applicable anti-discrimination legislation and submit that documentation to BC Housing on request.
- 4. Approved Residents. All Residents must be selected in accordance with the Specific Purpose and must be placed in a Residential Unit appropriate to their household size in accordance with the Occupancy Standards. Exceptions may be made for:
  - a. persons designated by mutual agreement between BC Housing and the Society; or
  - **b.** staff or other authorized personnel required to operate and maintain the Development and who are bona fide employees of the Society. The maximum income threshold/limitation does not apply to this type of residency.
- 5. Membership in Society. The Society will not require a Resident to be a member of the Society.
- 6. Residency Agreements. The Society will enter into a Residency Agreement with each Resident and all Residency Agreements will be in compliance with the *Residential Tenancy Act*.
- 7. Resident Relations. The Society will establish policies and procedures to:
  - a. select Residents in an open, fair, consistent and non-discriminatory way;
  - b. serve Residents promptly and courteously, with clear and informative communication;
  - c. provide each Resident with access to information concerning that Resident and protect the privacy of Residents; and
  - **d.** develop an appeals process for rejected applicants as well as other Resident issues. The process must be transparent and accessible for all applicants and Residents.

## APPENDIX "B" RTE16-0003

#### SCHEDULE E – RENT SCALE

#### A. RESIDENT INCOME

- 1. The Resident Rent Contribution will not exceed a set percentage<sup>1</sup>, as determined from time to time by BC Housing, of the Resident's Income, and the following will apply:
  - a. Income includes, without limitation:
    - i. all income from earnings, including commissions and tips;
    - ii. all income from all public and private pension plans, Old Age Security and Guaranteed Income Supplement;
    - all income received under the Employment and Assistance Act [SBC 2002] Chapter 40, the Employment and Assistance for Persons with Disabilities Act [SBC 2002] Chapter 41, or successor legislation ("Income Assistance");
    - iv. Disabled Veteran's Allowance;
    - v. alimony;
    - vi. child support;
    - vii. workers' compensation benefits;
    - viii. employment insurance; and
    - ix. an imputed income from assets;
  - **b.** a minimum Resident Rent Contribution is applied based on applicable household size and age of the Resident; and
  - **c.** the Resident Rent Contribution of a Resident in receipt of Income Assistance will be fixed at an amount as set out in *Schedule E, Part E* below or as may be determined from time to time by BC Housing.

#### **B. EXEMPTIONS FROM INCOME**

- 1. The following are exempt from inclusion in Income:
  - a. Child Tax Benefit;
  - capital gains, such as insurance settlements, inheritances, disability awards and sale of effects in the year they are received (Note: in subsequent years these are considered as assets);
  - up to \$200.00 per month for each person residing in a Residential Unit receiving income from employment. Earnings of less than \$200.00 can be deducted up to the amount earned;
  - d. the earnings of a person aged eighteen (18) and under;
  - e. student loans, student loan equalization payments and student grants (Note: non-repayable training allowances, research fellowships or similar grants are not excluded);
  - f. income of full-time students aged nineteen (19) or over from temporary jobs between school years or semesters to a maximum of four (4) months per calendar year (Note: regular ongoing income is not exempt);
  - g. living out or travelling allowances;
  - h. Shelter Aid for Elderly Renters ("SAFER") or Rental Assistance Program ("RAP") payments received prior to moving into the Development (Note: Residents where the Rent Scale applies are not eligible for SAFER or RAP);
  - i. Goods and Services Tax (GST) rebates and Harmonized Sales Tax (HST) rebates;
  - j. taxable benefits;
  - k. government provided daycare allowance; and
  - I. payments for foster children, or Child in Home of Relative (CIHR) income under the Employment and Assistance Act.

<sup>&</sup>lt;sup>1</sup> Currently: 30% of income

### APPENDIX "B" RTE16-0003

#### C. ASSETS

- 1. Assets include:
  - a. accounts in banks, trust companies, etc.;
  - b. stocks and bonds;
  - c. real estate;
  - d. equity in a business; and
  - e. cash and other items of a potential income earning nature.
- 2. Asset Exemptions include:
  - a. Registered Retirement Savings Plans;
  - b. Registered Education Savings Plans; and
  - c. Registered Disability Savings Plans.

#### D. INCOME FROM ASSETS

1. Income from assets is determined by exempting the first \$10,000.00 from total assets and computing the balance at a percentage per annum<sup>2</sup> as may be set from time to time by BC Housing. Because income from assets is determined by an imputed amount, actual income from assets should not be declared.

#### E. DETERMINATION OF RESIDENT RENT CONTRIBUTION FOR RESIDENTS RECEIVING INCOME ASSISTANCE

- 1. The Society will set the Resident Rent Contribution for each Residential Unit where the Resident is in receipt of Income Assistance as follows:
  - a. at the maximum shelter component (as may be changed from time to time) provided for in the *Employment and Assistance Act*, the *Employment and Assistance for Persons with Disabilities Act*, or successor legislation, less a fixed allowance for utilities as approved by BC Housing, on a regional basis from time to time. For greater clarity, only one allowance for utilities per Residential Unit can be used in calculation of Resident Rent Contribution.
  - **b.** If the Resident is a single person, Resident Rent Contribution will be based on the Income Assistance shelter component for a single person.
  - c. If the Resident consists of two (2) related persons (e.g., married or common-law relationships), Resident Rent Contribution will be based on the Income Assistance shelter component provided for two related persons.
  - d. If the Resident consists of two (2) unrelated persons, Resident Rent Contribution will be based on two times the Income Assistance shelter component for single persons.
  - e. If the Resident consists of more than two (2) persons, Resident Rent Contribution will be calculated based on the number of Residents and their relationship as per *Schedule E*, *Part E*, *Clauses 1.c and 1.d* above.
  - f. If the maximum shelter component of Income Assistance changes, Resident Rent Contribution will be changed at the same time after reasonable notice to the Resident.

#### F. NOTES

- 1. BC Housing may change all or part of this scale at any time.
- 2. An adjustment for resident paid heating costs for Residents not in receipt of Income Assistance may be made in an amount as determined from time to time by BC Housing.

<sup>&</sup>lt;sup>2</sup> At January 2010 1% per annum

# **REPORT TO COUNCIL**



Date:	August 8, 201	6		Kelowi			
RIM No.	0505-88						
То:	City Manager						
From:	Community Pl	anning Department (A	AC)				
Application:	RTE15-0002 (A	Amendment)	Owner:	Silvia Vigilante			
Address:	460 Doyle Ave	enue	Applicant:	Kelowna Sustainable Innovation Group Ltd.			
Subject:	Revitalization Tax Exemption Agreement Amendment						
Existing OCP De	esignation:	MXR - Mixed Use (Res	sidential / Cor	nmercial)			
Existing Zone:		C7 - Central Business	Commercial				

#### 1.0 Recommendation

THAT Council approves the City of Kelowna entering into an amended Revitalization Tax Exemption Agreement with Kelowna Sustainable Innovation Group Ltd. for Lot 4, District Lot 139, ODYD, Plan KAP57837, located on 460 Doyle Avenue, Kelowna, BC, in the form attached to the report from Urban Planning dated August 8, 2016;

AND THAT the Mayor and City Clerk be authorized to execute the Revitalization Tax Exemption Agreement.

#### 2.0 Purpose

The applicant is applying to amend the RTE15-0002 which was approved by Council at the May 25, 2015 Council Meeting. The applicant would like to change the term of the agreement from 2017 -2026 to 2018 - 2027.

#### 3.0 Community Planning

Staff support amending the agreement as the building will not receive its Occupancy Permit till September 2017. Therefore, it is appropriate to start the Revitalization Tax Exemption Agreement once the building is completed at the beginning of the next year. The subject property is located within "Tax Incentive Area 3", therefore the commercial project qualifies for a 50% exemption on the incremental increase in assessed value.

### 4.0 Proposal

Subject Property Map: 460 Doyle Avenue



5.0 Technical Comments

N/A

Report prepared by:

Adam &	Cseke,	Planner	Jenna Ratzlaff, Planner
Approv	ved for In	clusion:	Terry Barton - Urban Planning Manager

#### Attachments:

Draft Revitalization Tax Exemption Agreement

Cc: Matt Friesen, Revenue Branch

BL10566, BL10674 amended SCHEDULE "B" and BL10974 replaced SCHEDULE "B":

#### SCHEDULE "B" Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the \_\_\_\_ day of \_\_\_\_\_, 2016 is

#### **BETWEEN:**

KELOWNA SUSTAINABLE INNOVATION GROUP 401 - 1447 Ellis Street, Kelowna, BC, V1Y 2A3 (the "Leasee")

AND:

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

GIVEN THAT:

- A. The Leasee is the registered leasee in fee simple of lands in the City of Kelowna at 460 Doyle Avenue, Kelowna, BC, V1Y 2A2 legally described as Air Space Parcel A, PID: 029-584-477, District Lot 139, ODYD, Air Space Plan EPP44678 (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 Leasee 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 Leasee and the City covenant and agree each with the other as follows:

1. **The Project** - the Leasee 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.

2. **Operation and Maintenance of the Project** - throughout the term of this agreement, the Leasee 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** - Refers to the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the property resulting from the construction or alterations as outlined in section 1 of this agreement;

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 Leasee 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 this agreement.

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 Leasee must obtain a building permit from the City for the Project on or before September 1, 2015;
- b. The Leasee 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" and the Project must be officially opened for use as *the Okanagan Centre for Innovation* (the "Exempt Use") and for no other use, by no later than September 1, 2017;
- c. The Leasee must submit a copy of the Occupancy Permit and Revitalization Tax Exemption Agreement to the City of Kelowna's Revenue Branch before the City will issue the Tax Exemption Certificate.
- d. The completed Project must substantially satisfy the performance criteria set out in Appendix "B" hereto, as determined by the City's Urban Planning Manager or designate, in their sole discretion, acting reasonably.

6. Calculation of Calculation of Revitalization Tax Exemption - the amount of the Tax Exemption shall be equal to:

*a)* For "Tax Incentive Area 3," 50% of the Revitalization Amount on a Parce, for a project with aminimum floor area of 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 the taxation years 2018 to 2027, inclusive.

#### 8. {deleted}

9. **Compliance with Laws** - the Leasee 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.

10. **Effect of Stratification** - if the Leasee stratifies the Parcel or the Project 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, where a Housing Agreement exists in relation to the Parcel or the Project which limits ability to stratify, the Housing Agreement is still complied with.

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

- a. on the written request of the Leasee; or
- b. effective immediately upon delivery of a notice of cancellation to the Leasee if at any time any of the conditions in the Tax Exemption Certificate are not met.

If such cancellation occurs, the Leasee 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 Leasee 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: Lynn Walter Fax: 250-862-3391

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

KELOWNA SUSTAINABLE INNOVATION GROUP 401 - 1447 Ellis Street, Kelowna, BC V1Y 2A3

Attention: Fax:

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 Leasee 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 Leasee 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 Leasee 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 KELOWNA SUSTAINABLE INNOVATION GROUP by its Authorized signatories:

Name: Lane Merrifield

Appendix "A": Plans and Specifications

Appendix "B": Performance Criteria

#### Schedule "C"

#### Tax Exemption Certificate

In accordance with the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference day \_\_\_\_\_ day of \_\_\_\_\_\_, 2016 (the "Agreement") entered into between the City of Kelowna (the "City") and Kelowna Sustainable Innovation Group Ltd. (the "Owner"), the registered owner(s) of Air Space Parcel A, PID: 029-584-477, District Lot 139, ODYD, Air Space Plan EPP44678 (the "Parcel"):

This certificate certifies that the Parcel is subject to a Revitalization Tax Exemption, for each of the taxation years 2018 - 2027 inclusive, equal to:

1. Tax Incentive Area 3, 50% of the Revitalization Amount attributed to Building Permit No. 50005 and 52728 between 2015 (the calendar year before the commencement of construction of the project) and 2018 (the calendar year in which the Revitalization Tax Exemption Certificate is issued).

Any construction of a new improvement or alteration of an existing improvement, on Parcel described above, undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration;

The maximum Revitalization Tax Exemption authorized must not exceed the increase in the assessed value of improvements on the property resulting from the construction or alteration attributed to Building Perm No. 50005 and 52728 between 2015 (the calendar year before the commencement of construction of the project) and 2018 (the calendar year in which the Revitalization Tax Exemption Certificate is issued);

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. The Revitalization Tax Exemption is provided under the following conditions:

- 1. The Owner does not breach any term condition or provision of, and performs all obligation set out in, the Agreement and the Bylaw;
- 2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
- 3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
- 4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued;

If any of these conditions are not met then the Council of the City of Kelowna may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, shall remit to the City an amount equal to the value of the exemption received after the date of the cancellation of the certificate.



# The Okanagan Centre for Innovation – Executive Summary



The Okanagan Centre for Innovation (OCI) is a community infrastructure project that has been many years in the making and was conceived by a group of sixteen Okanagan community members including entrepreneurs, business executives, members from all levels of government and heads of post-secondary academic institutions.

APPENDIX "A + B"

RTE15-0002

These community leaders gathered two years ago to discuss "how to create a vibrant entrepreneurial ecosystem in our community." From that meeting came a shared vision and desire to build western Canada's most innovative, creative entrepreneurial and technology community. Inspired in part by the purposeful design and development investments in Pixar's, Apple's and Google's numerous campuses around the world – the concept of the OCI was born.

The OCI will be a hub of innovation, creativity, entrepreneurship and technology; stimulating and diversifying the economy; accelerating new business and job creation while supporting entrepreneurs through a sustainable business model.

For communities to remain economically vibrant they must transition from traditional resource and manufacturing based economic development initiatives to the emerging knowledge-worker economy. For this shift to occur it is essential that entrepreneurs and start-ups get the support needed to build innovative companies and create high paying knowledge-based employment opportunities.

In a 2010 report published by Tim Kane from the Kauffman Foundation, he states that 100% of net job growth in the U.S. comes from entrepreneurial start-ups and that if you took start-ups out of the picture and looked only at large or incumbent businesses, job growth over the last 35 years would actually be negative. In the words of Kauffman's Tim Kane, "When it comes to job growth, start-up companies aren't everything....They're the only thing."

At the heart of the OCI is a technology business incubator that will support entrepreneurs and startups by creating an effective link between talent, technology, funding, mentorship, education and knowhow that is essential for the ideation, creation and commercialization of new innovative products and services.

State-of-the-art facilities will include a mix of technology, education, art, culture and music through a variety of shared & individual work areas, creative, lab, social, meeting & performing spaces. Start-up founders, academics and CEO's of existing technology companies will be able to meet and mingle in the common areas along with community members and entrepreneurial leaders ranging from grassroots creative's to leaders of fortune 100 companies.

Creating "collisions" are critical in a healthy, vibrant and growing start-up ecosystem. These often serendipitous, interactive collisions are where ideas and innovation happen. Whether it is business development and mentorship, research and development, access to capital, or training tailored to individual companies, the OCI will house a unique combination of resources that are essential to entrepreneurs starting and growing innovative, creative, technology companies.

The Okanagan's technology industry, now the third largest in the province, (behind only Vancouver and Victoria) is currently generating \$1.0+ B annually (2013) and is poised for significant and continued growth projected to be \$1.7B in 2015. The OCI will be a key driver and provide the necessary infrastructure and resources to ensure that the Okanagan region capitalizes on this opportunity, maximizes its growth potential and is well positioned to compete on the global stage.

The OCI, a \$35M project, will make significant positive impact to the regional economy through the construction phase (\$62M), annual operational phase (\$24M/yr direct employment only) and ongoing impact through business incubation including company and job creation, talent attraction & retention, increased trade & investment activity and industry aligned skills development.

Local academic institutions are committed to the region, and have been expanding year over year. The OCI's partnership with UBC-O and Okanagan College will be key to attracting and developing knowledge workers, and the relationship will continue to expand & evolve based on needs within the region. Through these types of partnerships, the OCI will play an active role in y addressing the "skills-gap" challenge through progressive and immersive educational and training opportunities.

The OCI is being financed through a very unique business model that is being supported by a combination of municipal, provincial and private contributions – with the public contributions being allocated to the business incubation space, digital media lab, community space and related technology infrastructure.

The OCI has successfully secured financial support from the Provincial Government (\$6M) for capital costs related to base construction of the business incubation and community space and a long term land lease from the City of Kelowna.

Through intelligent economic development initiatives like the OCI in partnership with municipal & provincial governments, private industry, academia and community leaders, the Okanagan region will become the best place in western Canada for entrepreneurs to start and grow innovative, creative and technology-based companies.

APPENDIX "A + B"

RTE15-0002

REPOR	T TO COUNCIL		City of
Date:	August 8, 2016		Kelowna
RIM No.	0505-88		
То:	City Manager		
From:	Community Planning Department (	(AC)	
Application:	RTE16-0001	Owner:	U-Three Mission Group Rentals Ltd.
Address:	805 Academy Way	Applicant:	U-Three - Mission Group Rentals Ltd.
Subject:	Revitalization Tax Exemption		

#### 1.0 Recommendation

THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Mission Group Holdings Ltd. For Lot 1, Sections 3 and 10, Township 23, ODYD, Plan EPP53793, located on 805 Academy Road, Kelowna, BC, in the form attached to the report from Community Planning dated August 8, 2016.

AND THAT the Mayor and City Clerk be authorized to execute the Revitalization Tax Exemption Agreement.

#### 2.0 Purpose

To enter into a 10 year Revitalization Tax Exemption Agreement with U-Three - Mission Group Rentals Ltd. In accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

#### 3.0 Background

The subject property is designated as MRM - Multiple Unit Residential (Medium Density) in the Official Community Plan (OCP) and is zoned RM5 - Medium Density Multiple Housing as of writing this. The Building Permit was submitted on February 15, 2016 but has not been issued yet. Occupancy for the subject property is excpected prior to fall 2017. In addition, the Development Permit and Development Variance Permit for the 64 unit, 4 storey apartment building was approved April 5, 2016 by Council under DP15-0316/DVP15-0317.

The project is in the Purpose-Built Rental Housing Projects category as described by the Revitalization Tax Exemption Program Bylaw No. 9561. In this category, projects will be considered for a tax incentive as long as:

- 1. The vacancy rate is at or below 3%
- 2. The subject property has a Housing Agreement (for up to 10 years)
- 3. Are in compliance with the OCP Future Land Use designation as at May 30, 2011.

Over the last few years, rental housing has been in great demand. According to CMHC at the end of 2015 the total vacancy rate in the Kelowna CMA was 0.7% compared to 1.0% the year prior. From 2014 to 2015 one bedroom units have dropped from 0.8% to 0.6% and two bedroom units have dropped even more from 1.3% to 0.9%. The subject property is supplying both one and two bedroom units. Therefore the vacancy rate requirement is met. The Housing Agreement (for up to 10 years) requirement is met and was approved by Council on May 2, 2016. Lastly, the subject property is in compliance with the OCP Futrue Land Use designation.

With all requirements met the subject property qualifies for a receive 100% of the Revitalization Tax Exemption. The exemption will be valid for the tax years 2018-2027.

#### 4.0 Internal Circulation:

Revenue Manager, Finacial Services

#### 5.0 Existing Policy:

Revitalization Tax Exemption Program Bylaw No. 9561

#### 6.0 Application Chronology:

Date of Application Received: December 24, 2015

Report	prepared	by:
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Adam &	Cseke,	Planner	Jenna Ratzlaff, Planner	

Approved	for	Inclusion:
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Terry Barton, Urban Planning Manager

#### Attachments:

Draft Revitalization Tax Exemption Agreement

Cc: Lynn Walter, Matt Friesen and James Moore, Revenue Branch

BL10566, BL10674 amended SCHEDULE "B" and BL10974 replaced SCHEDULE "B":

SCHEDULE "B" Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the 5 day of JJJY, 2016 is

#### **BETWEEN:**

U-Three - Mission Group Rentals Ltd. #1000-1631 Dickson Avenue Kelowna, BC, 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 805 Academy Way Kelowna, Lot 1, Sections 3 and 10, Township 23, ODYD, Plan EPP53793, (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) Develop a 4-Storey Rental Apartment Building on Academy Way
- b) will include up to 63 rental apartments, including 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** - Refers to the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the property resulting from the construction or alterations as outlined in section 1 of this agreement;

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 this agreement.

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 obtain a building permit from the City for the Project on or before October 1<sup>st</sup>, 2016;

b. 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" and the Project must be officially opened for use as rental housing (the "Exempt Use") and for no other use, by no later than September 1<sup>st</sup>, 2017;

c. The Owner must submit a copy of the Occupancy Permit and Revitalization Tax Exemption Agreement to the City of Kelowna's Revenue Branch before the City will issue the Tax Exemption Certificate.

d. The completed Project must substantially satisfy the performance criteria set out in Appendix "B" hereto, as determined by the City's Urban Planning Manager or designate, in their sole discretion, acting reasonably.

6. Calculation of Calculation of Revitalization Tax Exemption - the amount of the Tax Exemption shall be equal to:

a) 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 the taxation years 2018 to 2027, inclusive.

#### 8. {deleted}

9. **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, regulation, policies, guidelines, criteria or the like made under or pursuant to any such laws.

10. Effect of Stratification - if the Owner stratifies the Parcel or the Project 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, where a Housing Agreement exists in relation to the Parcel or the Project which limits ability to stratify, the Housing Agreement is still complied with.

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.

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, BC V1Y 1J4

Attention: Lynn Walter Fax: 250-862-3391

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

U-Three - Mission Group Rentals Ltd. #1000-1631 Dickson Avenue Kelowna, BC, V1Y 0B5

Attention: LUKE TURPI Fax: 250.762.4236

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 enure 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 U-Three - Mission Group Rentals Ltd. by its Authorized signatories:

Name: LUKE TURRI

Name:

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

#### Schedule "C"

#### Tax Exemption Certificate

In accordance with the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference day  $\underline{5}$  day of  $\underline{1017}$ , 2016 (the "Agreement") entered into between the City of Kelowna (the "City") and Mission Group Holdings Ltd. (the "Owner"), the registered owner(s) of Lot 1, Sections 3 and 10, Township 23, ODYD, Plan EPP5379 (the "Parcel"):

This certificate certifies that the Parcel is subject to a Revitalization Tax Exemption, for each of the taxation years 2018-2027 inclusive, equal to:

1. Purpose-Built Rental Housing Project, 100% of the Revitalization Amount attributed to Building Permit No. BP 52324, BP 52325 and BP 52326 between 2015 (the calendar year before the commencement of construction of the project) and 2016 (the calendar year in which the Revitalization Tax Exemption Certificate is issued).

Any construction of a new improvement or alteration of an existing improvement, on Parcel described above, undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration;

The maximum Revitalization Tax Exemption authorized must not exceed the increase in the assessed value of improvements on the property resulting from the construction or alteration attributed to Building Perm No: BP 52324, BP 52325 and BP 52326 between 2015 (the calendar year before the commencement of construction of the project) and 2016 (the calendar year in which the Revitalization Tax Exemption Certificate is issued);

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. The Revitalization Tax Exemption is provided under the following conditions:

- 1. The Owner does not breach any term condition or provision of, and performs all obligation set out in, the Agreement and the Bylaw;
- 2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
- 3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
- 4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued;

If any of these conditions are not met then the Council of the City of Kelowna may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, shall remit to the City an amount equal to the value of the exemption received after the date of the cancellation of the certificate.



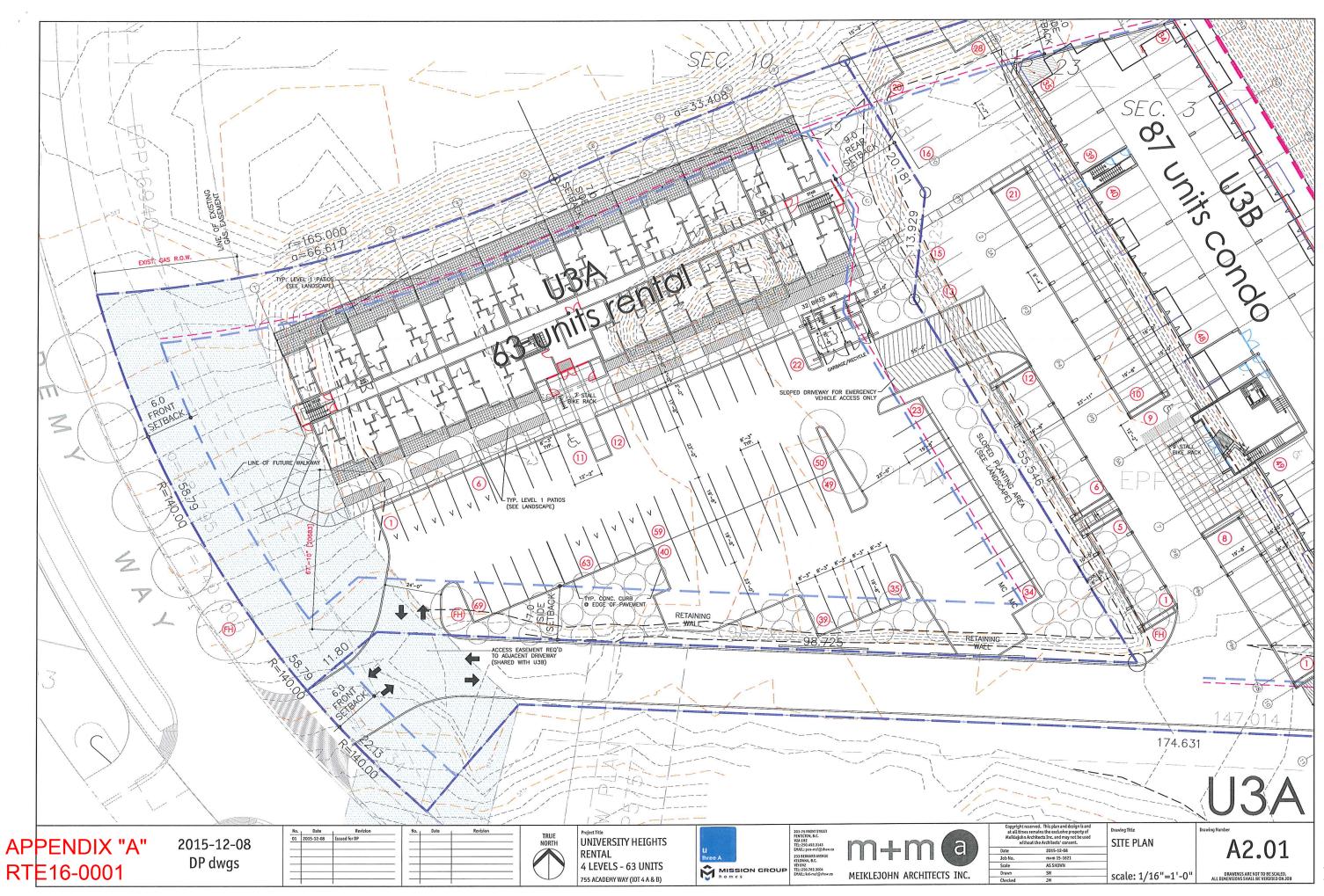


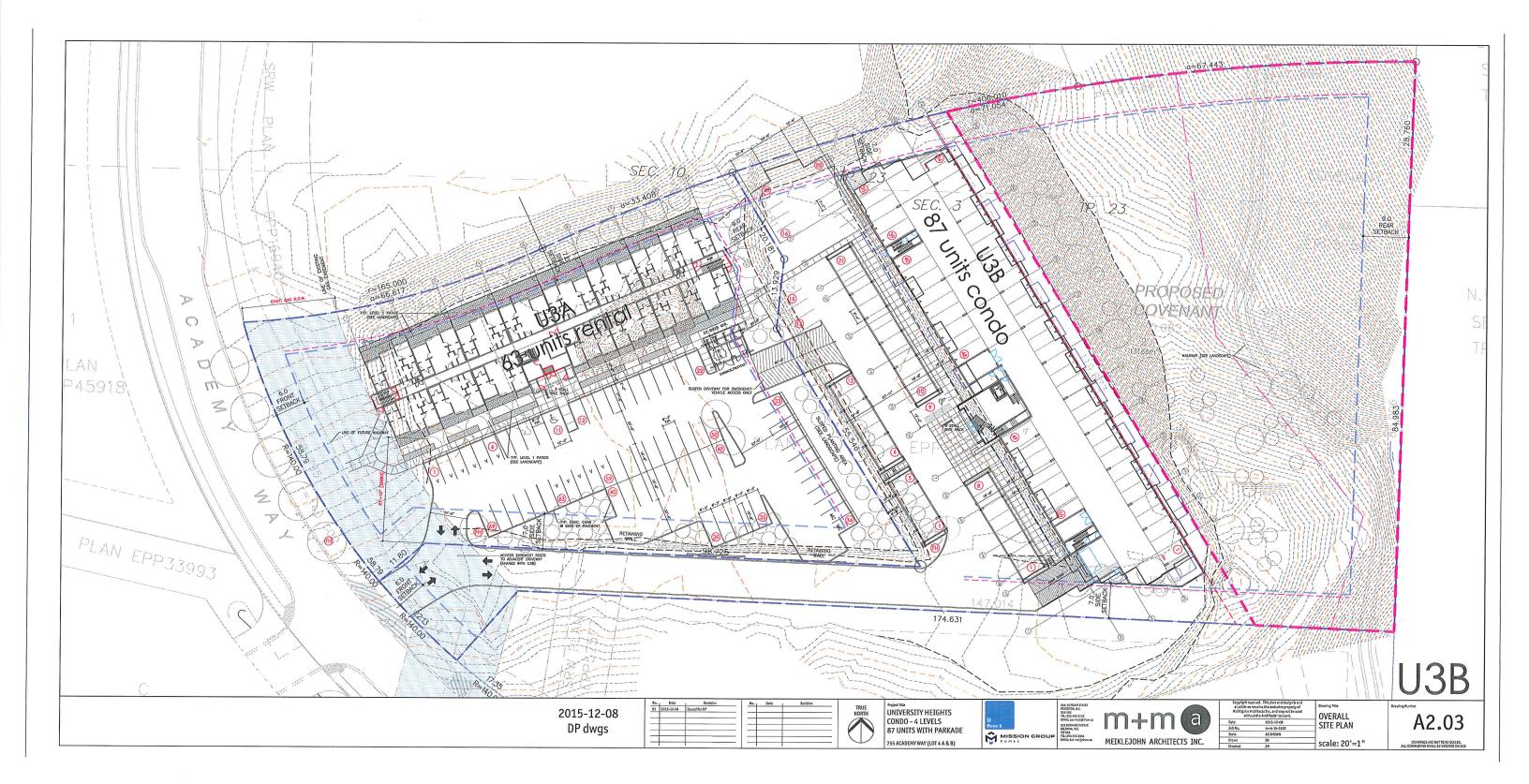
U3A RENTAL					
ADDRESS	755 ACADEMY WAY (LOT 4 A & B)				
LEGAL DESCRIPTION	PART OF LOT 1, SECT 3 & 10 TOWNSHIP 23 OYDP EPP45919				
DEVELOPMENT PERMIT AREA	N/A				
EXISTING ZONING	RM5 MEDIUM DENSITY MULTIPLE HO	USING			
EXISTING LEGAL USE	VACANT				
GRADES	EXISTING AVERAGE - SLOPING	FINISH AVERAGE - SLOPING			
NUMBER OF BUILDINGS	4 STOREY APT. BUILDINGS				
CRITERIA FOR ALL TYPES OF APPLICATION:	<u>RM5</u> MEDIUM DENSITY MU ZONING STANDARD	LTIPLE HOUSING PROPOSAL			
SITE AREA (sm)	1,400 sm	±6,500 sm			
SITE WIDTH (m)	30.0m	±98m			
SITE DEPTH (m)	35.0m	±66m			
OFF-STREET PARKING	93 stalls min. (see parking calculations)	69 stalls (Variance Requested)			
PRIVATE OPEN SPACE	15 sm / 1bed x <u>8</u> = 120 sm 25 sm / more than 1bed x <u>55</u> = 1375 sm total = 1,495 sm min. 63 units	±1,538 sm (see building area calculations)			
HEIGHT OF BUILDING (S)/# OF STOREYS	18.0m / 4.5 storeys	±12.2m / 4 storeys			
SITE COVERAGE OF BUILDING(S) (%)	40% max.	±1,213 sm (±18.7%)			
SITE COVERAGE INCLUDING BUILDINGS, DRIVEWAYS AND PARKING (%)	60% max.	±3,387 sm (±52.1%)			
ADDITIONAL REQUIREMENTS FOR COMMERCIAL, INDUSTRIAL AND MULTIPLE UNIT / INTENSIVE RESIDENTIAL APPLICATIONS:	RM5 MEDIUM DENSITY MU ZONING STANDARD	LTIPLE HOUSING PROPOSAL			
RESIDENTIAL APPLICATIONS.					
NUMBER OF BICYCLE PARKING SPACES	Class I: 0.5 per dwelling unit x 63 units Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min.	Class I: secure bike storage compound for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan)			
NUMBER OF BICYCLE PARKING SPACES	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min.	Class II: 7 stall bike rack (see site plan)			
NUMBER OF BICYCLE PARKING SPACES	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A			
NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED)	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min.	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan)			
NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETBACKS TO PARKING (m):	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A 7.0m	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A 7.0m			
NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETEACKS TO PARKING (m): NORTH (SIDE)	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A 7.0m N/A	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A 7.0m N/A			
NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETBACKS TO PARKING (m): NORTH (SIDE) SOUTH (SIDE)	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A N/A N/A N/A	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A N/A N/A			
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NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETBACKS TO PARKING (m): NORTH (SIDE) SOUTH (SIDE) WEST (FRONT) EAST (REAR)	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A 7.0m N/A N/A 3.0m min. N/A	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A 7.0m N/A M/A 4.6m min. N/A			
	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A 7.0m N/A N/A N/A N/A 3.0m min.	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A 7.0m N/A N/A N/A ±6m min.			
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NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETBACKS TO PARKING (m): NORTH (SIDE) WEST (FRONT) EAST (REAR) FLOOR AREA NET FLOOR AREA NET FLOOR AREA RATIO (F.A.R.) BUILDING (S) SETBACKS (m): NORTH (SIDE)	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A N/A N/A 3.0m min. N/A ± 7,150 sm max. net area 1.1 max 7.0m (over 2 1/2 storeys)	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A 7.0m N/A N/A 4.6m min. N/A ± 3,852 sm (41,459 sf) 0.59 ±8m min.			
NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETBACKS TO PARKING (m): NORTH (SIDE) WEST (FRONT) EAST (REAR) FLOOR AREA NET FLOOR AREA NET FLOOR AREA RATIO (F.A.R.) BUILDING (S) SETBACKS (m): NORTH (SIDE)	Total = 32 bikes min. Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min. N/A N/A N/A N/A N/A N/A 1.1 max	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A 7.0m N/A 46m min. N/A ± 3,852 em (41,459 sf) 0.59 ±8m min. ±25m min.			
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NUMBER OF BICYCLE PARKING SPACES NUMBER OF LOADING SPACES DRIVE AISLE WIDTH (m) (IF PROPOSED) SETBACKS TO PARKING (m): NORTH (SIDE) SOUTH (SIDE) WEST (FRONT) EAST (REAR) FLOOR AREA NET FLOOR AREA RATIO (F.A.R.)	Total = 32 bikes min.           Class II: 0.1 per dwelling unit x 63 units Total = 7 bikes min.           N/A           7.0m           N/A           N/A           N/A           N/A           N/A           N/A           1.1 max           7.0m (over 2 1/2 storeys)           7.0m (over 2 1/2 storeys)           6.0m           9.0m	for min. 32 bikes (see site plan) Class II: 7 stall bike rack (see site plan) N/A N/A N/A N/A ±6m min. N/A ±3.852 sm (41,459 sf) 0.59 ±8m min. ±25m min. ±25m min. ±22m min.			

PARKING CALC STALL SIZE -ULL SIZE STALL MEDIUM SIZE STALL (40% max COMPACT SIZE STALL (10% mi							FIRE PROTECT	ION: 3.	2.4./ 3.2.5./ 3.2.6.
JLL SIZE STALL EDIUM SIZE STALL (40% max	WIDTH	H	LENGT	4	HEIGHT		LOCATION OF HYDRANT TO		
EDIUM SIZE STALL (40% max		2.5m) min.	19'-8" (6	.0m) min.	6'-6" (2.0m) m	in.	SIAMESE CONNECTION	45 m MAX.	3.2.5.5.
	) 7'-6" (2	2.3m) min.	15'-9" (4	.8m) min.	6'-6" (2.0m) m	in.	STANDPIPE/HOSE	YES (IN EACH STAIR SHAFT)	3.2.5.8.
	ax) 6'-6" (2	2.0m) min.	11'-2" (3	.4m) min.	6'-6" (2.0m) m	in.	SPRINKLERED	YES	
ISABLED STALL	12'-2"	(3.7m) min.	19'-8" (6	.0m) min.	6'-6" (2.0m) m	in.	FIRE ALARM SYSTEM	YES	3.2.4.1.(2)(f)
RIVE AISLES (2-way 90° pkg)	23'-0"	(7.0m) min.					EXIT LIGHTS	YES	
ARKING REQUIREMENTS:				4			EMERGENCY LIGHTING	YES	
		ENTIAL:	orn units x 8 u	mite	10 stalls				
			om units x 55 i		83 stalls		OCCUPANT LO	AD	TABLE 3.1.17.1.
			REQUIRED:		93 STALLS		RESID. LEVEL 1: 2 PEF	RSONS/ SLEEPING ROOM X 28 ROOMS	S 56 PERSONS
	TOTAL	L PARKING	PROVIDED:				RESID. LEVELS 2-4: 2 PEF	RSONS/ SLEEPING ROOM X 30 ROOMS	S 60 PERSONS PER FLOOR
	PARK	ING @ GRA	DE: 69 :	STALLS			BUILD	DING TOTAL	236 PERSONS
	TOTAL	L	69 5	STALLS (VARIA	NCE REQUES	STED)			
							EXIT FACILITIE	S	3.1 TO 3.6
BUILDING CODE	E REVI	EW					REQUIRED EXITS	2 MIN. PER FLOOR	
								REQUIRED WIDTHS	PROVIDED WIDTHS
CCUPANCY	GROU	IP C						min. 800mm door width	
RTICLE	3.2.2.5	50						as per 3.4.3.2.(A)	
O. OF STOREYS	4 STO	REYS						min. 1100mm stair width as per 3.4.3.2.(A)	
O. OF STREETS FACING	1							as por 3.4.3.2.(n)	
IAX. BUILDING AREA	1,800 :	sm					RESIDENTIAL LEVELS:	C Amm/ V AA	2 door @ 2107 @
ONSTRUCTION TYPE	COMB	USTIBLE					LEVEL 1 - 4 (doors)	6.1mm/ person X 60 persons max min. door width/ floor = 366mm	x. 2 doors @ 3'-0" @ each floor width/ floor = 6'-0" (1829mm)
PRINKLERED	YES						LEVEL 1 - 4 (stairs)	8.0mm/ person X 60 persons max	
ASSEMBLY RATINGS:								min. stair width/ floor = 480mm	width/ floor = 7'-8" (2337mm)
LOOR	1 HR.						RESIDENTIAL UNITS	min. 1 door @ 800mm (each unit)	
VALLS / BEARING STRUCTUR							EXIT THROUGH LOBBY	N/A	3.4.4.2
OOFS	1 HR						PANIC HARDWARE REQ'D	yes (at exterior stair doors)	3.4.6.16.(2)
						1	EXIT EXPOSURE	ok	3.2.3.13
BUILDING AND	FLOOF	R ARE	AS:				MAX. TRAVEL DISTANCE	45m	3.4.2.5.(1)
	UNIT	UNIT	UNIT			BALCONY AREAS	EXIT RATINGS REQUIRED:	410	
UNIT TYPES	NFA ±sf	NFA ±sm	COUNT	1		±sf (incl. level 1 patios)	STAIR SHAFTS	1 HR 1 HR	3.4.4.1 3.3.2.6.(4)
A 1 BED	480	45	8			2,859	CORRIDORS	InA	3.3.2.0.(4)
B 2 BED	690	64	48			5,158			
31 2 BED	623	58	1			448	REQUIRED FIR	E SEPARATIONS	3.1.3.1.
32 2 BED	683	63	3			228	TENANTS / MAJOR OCCUPAN	CIES	
33 2 BED	616	57	3			244	GROUP C TO C	1 HR	3.3.1.1.
DTAL NET AREA FOR F.A.R.	41,459	3,850	63			8,937			6
		соммо		OPEN SPACE:			SERVICES ROOMS	1 HR	3.6.2.
		Commo		of Elformore.	±sf	±sm	JANITOR ROOM	Non-Rated Fire Separation	
			1	BALCONIES	9,105	846			
		COMM	ION/LANDSC	APE AREAS	7,444	692	BUILDING FIRE	SAFETY	
				TOTAL	16,549	1,538			
							SOFFIT PROTECTION	N/A (SPRINKLERED)	3.2.3.16.
							SOFFIT PROTECTION FLAME SPREAD RATINGS	N/A (SPRINKLERED) COMPLY WITH	3.1.13.2
			GFA ±sf	Res. GFA ±s					
		13,0	61	1,213			FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING	COMPLY WITH	3.1.13.2 3.1.14.2.
NDLEVEL		13,0 13,0	161 134	1,213 1,211			FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION	COMPLY WITH N/A CLASS "A"	3.1.13.2 3.1.14.2. 3.1.15.2.
ND LEVEL RD LEVEL		13,0 13,0 13,0	161 134 134	1,213 1,211 1,211			FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS	COMPLY WITH N/A CLASS "A" YES	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11.
ND LEVEL RD LEVEL TH LEVEL		13,0 13,0 13,0 13,0	161 134 134 134 134	1,213 1,211 1,211 1,211			FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA	COMPLY WITH           N/A           CLASS "A"           YES           300 sm	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5.
ND LEVEL RD LEVEL H LEVEL		13,0 13,0 13,0	161 134 134 134 134	1,213 1,211 1,211			FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA	COMPLY WITH           N/A           CLASS "A"           YES           300 sm           N/A	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6.
ND LEVEL RD LEVEL TH LEVEL		13,0 13,0 13,0 13,0	161 134 134 134 134	1,213 1,211 1,211 1,211			FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA	COMPLY WITH           N/A           CLASS "A"           YES           300 sm	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5.
ND LEVEL RD LEVEL TH LEVEL OTAL RESIDENTAL GFA ITTE COVERAGE AREAS:		13,0 13,0 13,0 13,0 52,1	161 134 134 134 134	1,213 1,211 1,211 1,211 1,211 4,846	m		FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA	COMPLY WITH           N/A           CLASS "A"           YES           300 sm           N/A           N/A	3.1.13.2         3.1.14.2.         3.1.15.2.         3.1.11.         3.1.11.5.         3.1.11.6.         3.1.11.5.
ND LEVEL RD LEVEL TH LEVEL OTAL RESIDENTAL GFA IITE COVERAGE AREAS: OTAL FOOTPRINT AREA FOR		13,0 13,0 13,0 13,0 52,1 RAGE:	161 134 134 134 134	1,213 1,211 1,211 1,211 4,846 ±1,2	m	i sí)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA	COMPLY WITH           N/A           CLASS "A"           YES           300 sm           N/A           N/A           N/A           YES	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.1.11.6. 3.1.11.5. 3.1.11.5.
ND LEVEL RD LEVEL TH LEVEL OTAL RESIDENTAL GFA ITE COVERAGE AREAS: OTAL FOOTPRINT AREA FOR OTAL FOOTPRINT AREA + P/	RKING @ GF	13,0 13,0 13,0 13,0 52,1 RAGE:	161 134 134 134 134	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	sf)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA	COMPLY WITH           N/A           CLASS "A"           YES           300 sm           N/A           N/A           YA           YES           REQUIREMENTS           REQUIRED	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED
ND LEVEL RD LEVEL TH LEVEL OTAL RESIDENTAL GFA ITE COVERAGE AREAS: OTAL FOOTPRINT AREA FOR OTAL FOOTPRINT AREA + P/	RKING @ GF	13,0 13,0 13,0 13,0 52,1 RAGE:	161 134 134 134 134	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m	sf)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA ACCESS TO MAIN ENTRANCE	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A MA YREQUIREMENTS REQUIRED S YES	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES
ID LEVEL RD LEVEL TH LEVEL OTAL RESIDENTAL GFA ITE COVERAGE AREAS: OTAL FOOTPRINT AREA FOR OTAL FOOTPRINT AREA FOR UILDING AREA FOR RESIDEN	RKING @ GF ITIAL BLDG:	13,0 13,0 13,0 52,1 XAGE: XAGE:	161 134 134 134 134	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA ACCESS IBILLITY ACCESS TO MAIN ENTRANCE ACCESS TO ALL FLOORS	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A V/A Y REQUIREMENTS REQUIRED S YES NO	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES YES
ND LEVEL RD LEVEL TH LEVEL OTAL RESIDENTAL GFA ITE COVERAGE AREAS: OTAL FOOTPRINT AREA FOR OTAL FOOTPRINT AREA FOR UILDING AREA FOR RESIDEN	RKING @ GF ITIAL BLDG:	13,0 13,0 13,0 52,1 XAGE: XAGE:	161 134 134 134 134	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	sf)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA ACCESS TO MAIN ENTRANCE	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A MA YREQUIREMENTS REQUIRED S YES	3.1.13.2 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES
ND LEVEL RD LEVEL TH LEV	RKING @ GF ITIAL BLDG: RATION TH, WEST (F	13,0 13,0 13,0 52,1 RAGE: RADE:	161 134 134 134 134	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA ACCESS TO MAIN ENTRANCE ACCESS TO MAIN ENTRANCE	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A N/A V REQUIREMENTS REQUIRED S YES NO NO NO	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH LEVEL TH LEVEL TH LEVEL STE COVERAGE AREAS: TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR SPATIAL SEPAI SOU	RKING @ GF ITIAL BLDG:	13,0 13,0 13,0 52,1 RAGE: RADE:	61	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA ACCESS TO MAIN ENTRANCE ACCESS TO MAIN ENTRANCE	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A V/A Y REQUIREMENTS REQUIRED S YES NO	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH LEVEL TH LEVEL TOTAL RESIDENTAL GFA SITE COVERAGE AREAS: TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR SPATIAL SEPAI SOL & EA WALL AREA WIN	RKING @ GF ITIAL BLDG: RATION TH, WEST (F ST WALL DOW OPENIN	13,0 13,0 13,0 52,1 RAGE: RADE: RONT) N NGS & ±	61 63 34 63 63 63 63 63 63 63 63 63 63 63 63 63	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS METAL DECK ASSEMBLIES ROOF COVERING CLASSIFICATION ATTIC FIRESTOPS MAX. ATTIC AREA MAX. CRAWLSPACE AREA CONCEALED FLOOR AREA ACCESS TO MAIN ENTRANCE ACCESS TO MAIN ENTRANCE	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A V/A Y REQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH LEVEL TH LEVEL TH LEVEL SITE COVERAGE AREAS: COTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR SPATIAL SEPAI SULDING AREA WIN WALL AREA WIN WIN	RKING @ GF ITIAL BLDG: RATION TH, WEST (F ST WALL DOW OPENIN L CONSTRUC	13,0 13,0 13,0 13,0 52,1 8AGE: RAGE: RAGE: V: N RONTJ N NGS & ±2 CTION ±1	61	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS         METAL DECK ASSEMBLIES         ROOF COVERING         CLASSIFICATION         ATTIC FIRESTOPS         MAX. ATTIC AREA         MAX. CRAWLSPACE AREA         CONCEALED FLOOR AREA         ACCESS TO MAIN ENTRANCE         ACCESS TO ALL FLOORS         ACCESSIBLE WASHROOM	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A VA YREQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN T	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH LEVEL TH LEVEL TH LEVEL STE COVERAGE AREAS: TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR STAL FOOTPRINT AREA FOR SPATIAL SEPAI SOU & EA SOU	RKING @ GF ITIAL BLDG: RATION TH, WEST (F, ST WALL DOW OPENIM L CONSTRUC RESTRICTED TING DISTAN	13,0 13,0 13,0 13,0 52,1 52,1 8AGE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8ADE: 8AGE:	61	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS         METAL DECK ASSEMBLIES         ROOF COVERING         CLASSIFICATION         ATTIC FIRESTOPS         MAX. ATTIC AREA         MAX. CRAWLSPACE AREA         CONCEALED FLOOR AREA         ACCESS TO MAIN ENTRANCE         ACCESS TO ALL FLOORS         ACCESSIBLE WASHROOM         WASHROOM FI         MIN. 1 REQ'D / DWELLING UNI	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A VA YREQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN T	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
& EA WALL AREA WIN OPENING AREA WAL % PROVIDED LIMI IMITING DISTANCE EXC CAS	RKING @ GF ITIAL BLDG: RATION TH, WEST (F ST WALL DOW OPENIN L CONSTRUC RESTRICTED TING DISTAN EED 9.0m IN EED 9.0m IN	13,0 13,0 13,0 13,0 52,1 RAGE: RADE: RADE: V: RONT) N NOS & ± CTION ± CTION ± CTION ± ALL ±	61	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS         METAL DECK ASSEMBLIES         ROOF COVERING         CLASSIFICATION         ATTIC FIRESTOPS         MAX. ATTIC AREA         MAX. CRAWLSPACE AREA         CONCEALED FLOOR AREA         ACCESS TO MAIN ENTRANCE         ACCESS TO ALL FLOORS         ACCESSIBLE WASHROOM         WASHROOM FI         MIN. 1 REQ'D / DWELLING UNI	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A VA YREQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN T	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH LEVEL TH LEVEL TH LEVEL TH LEVEL TH COVERAGE AREAS: TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR SPATIAL SEPAI SPANNG AREA VIAL AREA VI	RKING @ GF ITIAL BLDG: RATION TH, WEST (F, ST WALL DOW OPENIN L CONSTRUC RESTRICTED DOW OPENIN L CONSTRUC RESTRICTED STAN EED 9.0m IN. ES, OR BLDG ES, A STREET	13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           10           10           11           11           11           11           11	61  34  34  34  63  0RTH WALL  23.3sm  8.6sm  7%  8.0m  20%	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS         METAL DECK ASSEMBLIES         ROOF COVERING         CLASSIFICATION         ATTIC FIRESTOPS         MAX. ATTIC AREA         MAX. CRAWLSPACE AREA         CONCEALED FLOOR AREA         ACCESS TO MAIN ENTRANCE         ACCESS TO ALL FLOORS         ACCESSIBLE WASHROOM         WASHROOM FI         MIN. 1 REQ'D / DWELLING UNI	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A VA YREQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN T	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH	RKING @ GF ITTAL BLDG: TH, WEST (F ST WALL DOW OPENIN L CONSTRUC RESTRICTED TING DISTAN ES, OR BLDG ES A STREET ORDANCE W	13,0 13,0 13,0 13,0 52,1 RAGE:	61 34 34 63 63 ORTH WALL 23.3sm 8.6sm 7% 8.0m 30% ombust.	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS         METAL DECK ASSEMBLIES         ROOF COVERING         CLASSIFICATION         ATTIC FIRESTOPS         MAX. ATTIC AREA         MAX. CRAWLSPACE AREA         CONCEALED FLOOR AREA         ACCESS TO MAIN ENTRANCE         ACCESS TO ALL FLOORS         ACCESSIBLE WASHROOM         WASHROOM FI         MIN. 1 REQ'D / DWELLING UNI	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A VA YREQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN T	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.8. PROVIDED YES YES YES NO
ND LEVEL RD LEVEL TH LEVEL TH LEVEL TH LEVEL TH COVERAGE AREAS: TO TAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR TOTAL FOOTPRINT AREA FOR SPATIAL SEPAI SULDING AREA VIAL AREA VIAL AREA VIAL SPENING AREA VIAL SPENING AREA VIAL SPENING DISTANCE EXCAS SPATIAL SEPAI SOU SUBSTRUCTION TYPE ACC	RKING @ GF ITTAL BLDG: TH, WEST (F ST WALL DOW OPENIN L CONSTRUC RESTRICTED TING DISTAN ES, OR BLDG ES A STREET ORDANCE W	13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           13,0           52,1           RAGE:           RADE:	61  34  34  34  63  0RTH WALL  23.3sm  8.6sm  7%  8.0m  20%	1,213 1,211 1,211 1,211 4,846 ±1,2 ±1,2	m 13 sm (13,061 87 sm (36,461	st)           st)           st)	FLAME SPREAD RATINGS         METAL DECK ASSEMBLIES         ROOF COVERING         CLASSIFICATION         ATTIC FIRESTOPS         MAX. ATTIC AREA         MAX. CRAWLSPACE AREA         CONCEALED FLOOR AREA         ACCESS TO MAIN ENTRANCE         ACCESS TO ALL FLOORS         ACCESSIBLE WASHROOM         WASHROOM FI         MIN. 1 REQ'D / DWELLING UNI	COMPLY WITH N/A CLASS "A" YES 300 sm N/A N/A VA YREQUIREMENTS REQUIRED S YES NO NO XTURES REQUIREN T	3.1.13.2 3.1.14.2. 3.1.14.2. 3.1.15.2. 3.1.11. 3.1.11.5. 3.1.11.6. 3.1.11.6. 3.1.11.6. 3.1.11.5. 3.8. PROVIDED YES YES YES NO

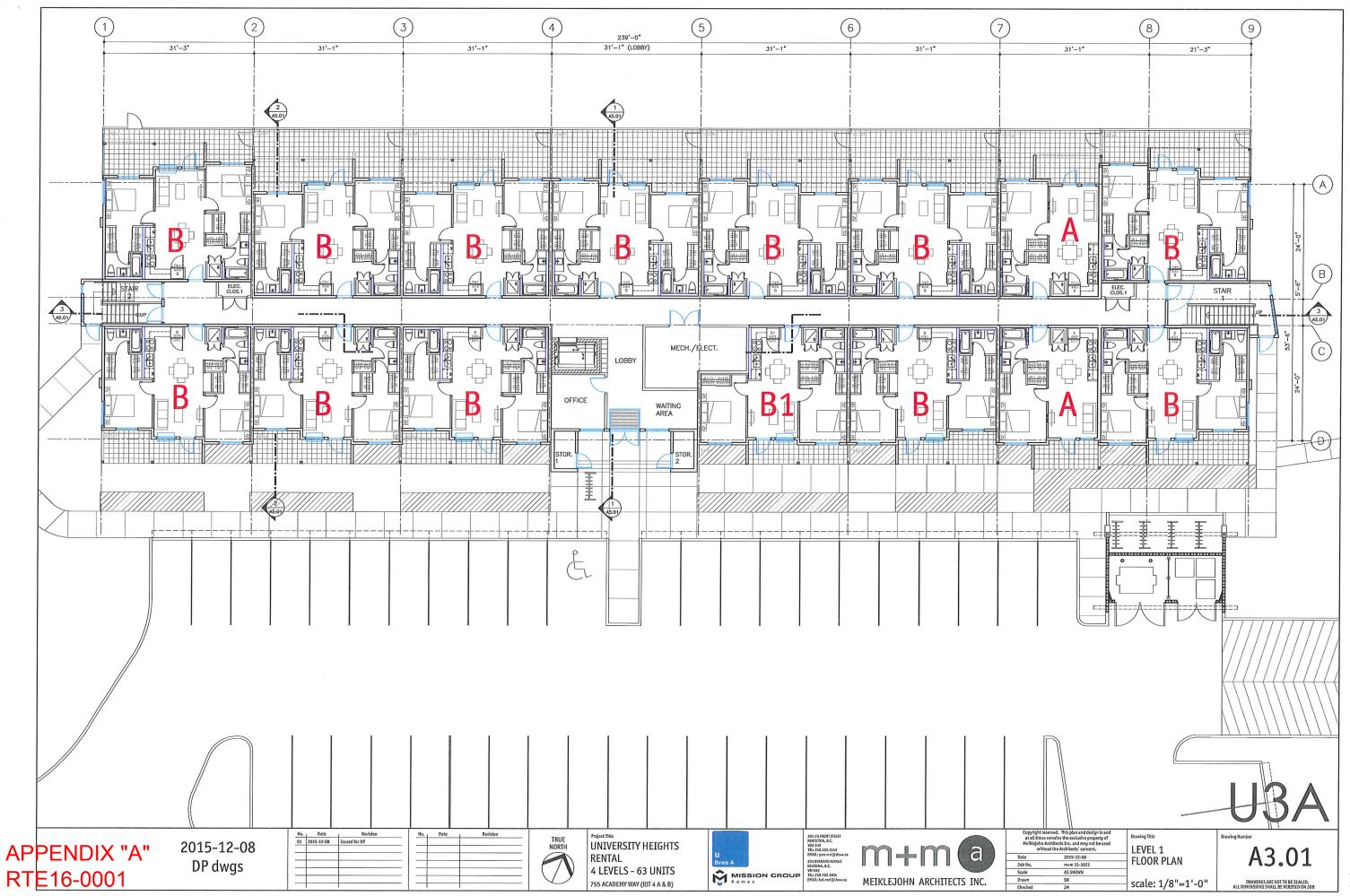
SPATIAL SE		3	
	SOUTH, WEST (FRONT) & EAST WALL	NORTH WALL	
WALL AREA	WINDOW OPENINGS &	±23.3sm	
OPENING AREA	WALL CONSTRUCTION	±8.6sm	
% PROVIDED	UN-RESTRICTED.	37%	
LIMITING DISTANCE	EXCEED 9.0m IN ALL CASES, OR BLDG FACES A STREET IN	±8.0m	
% PERMITTED		100%	
CONSTRUCTION TYPE	ACCORDANCE WITH	Combust.	
CLADDING MATERIAL	3.2.3.10	Combust.	
REQUIRED RATINGS		No Rating Req.	

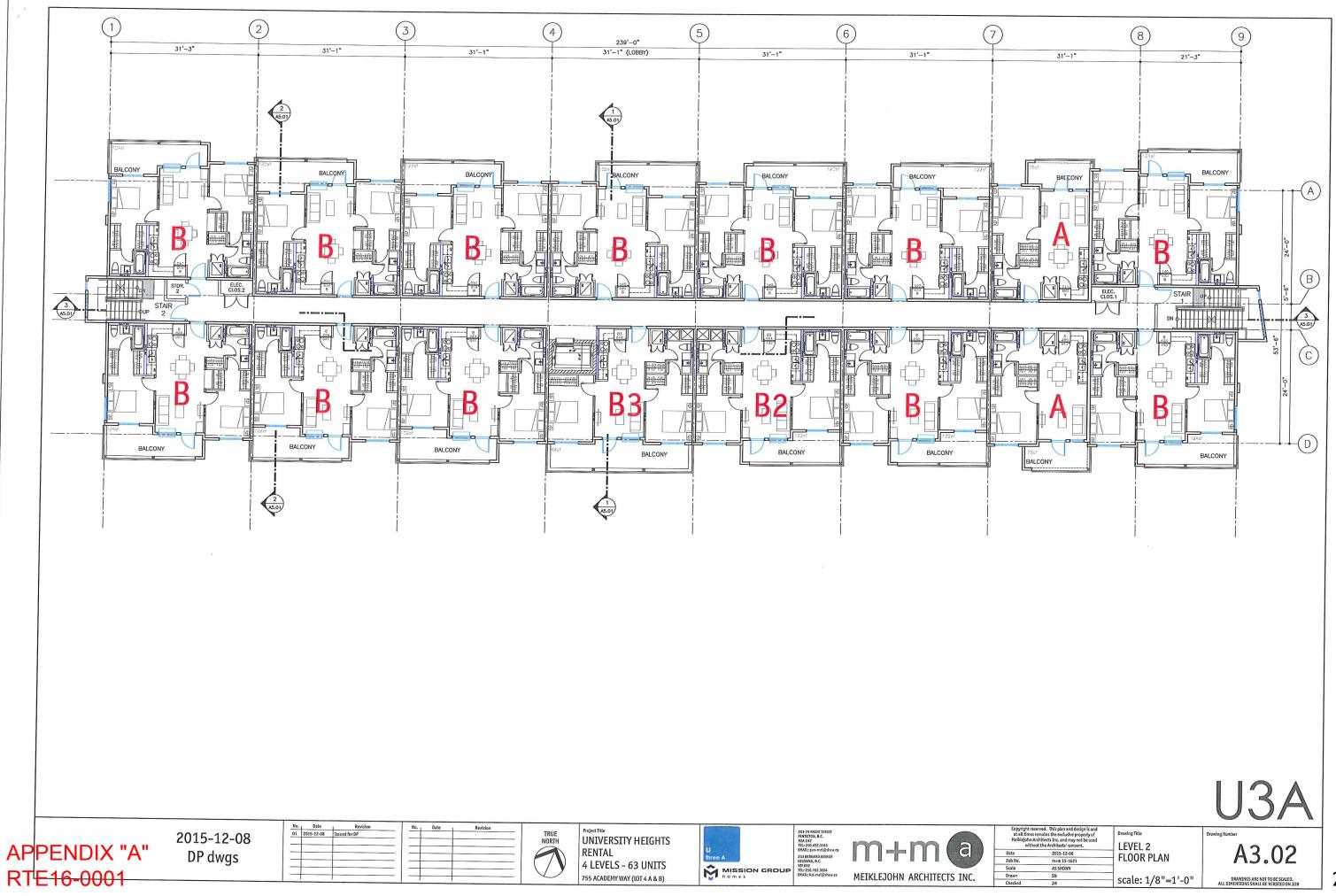
Project Title UNIVERSITY HEIGHTS RENTAL 4 LEVELS - 63 UNITS 755 ACADEMY WAY (10T 4 A & B) TRUE NORTH No. 01 2015 No. Date APPENDIX "A" 2015-12-08 u three A DP dwgs RTE16-0001

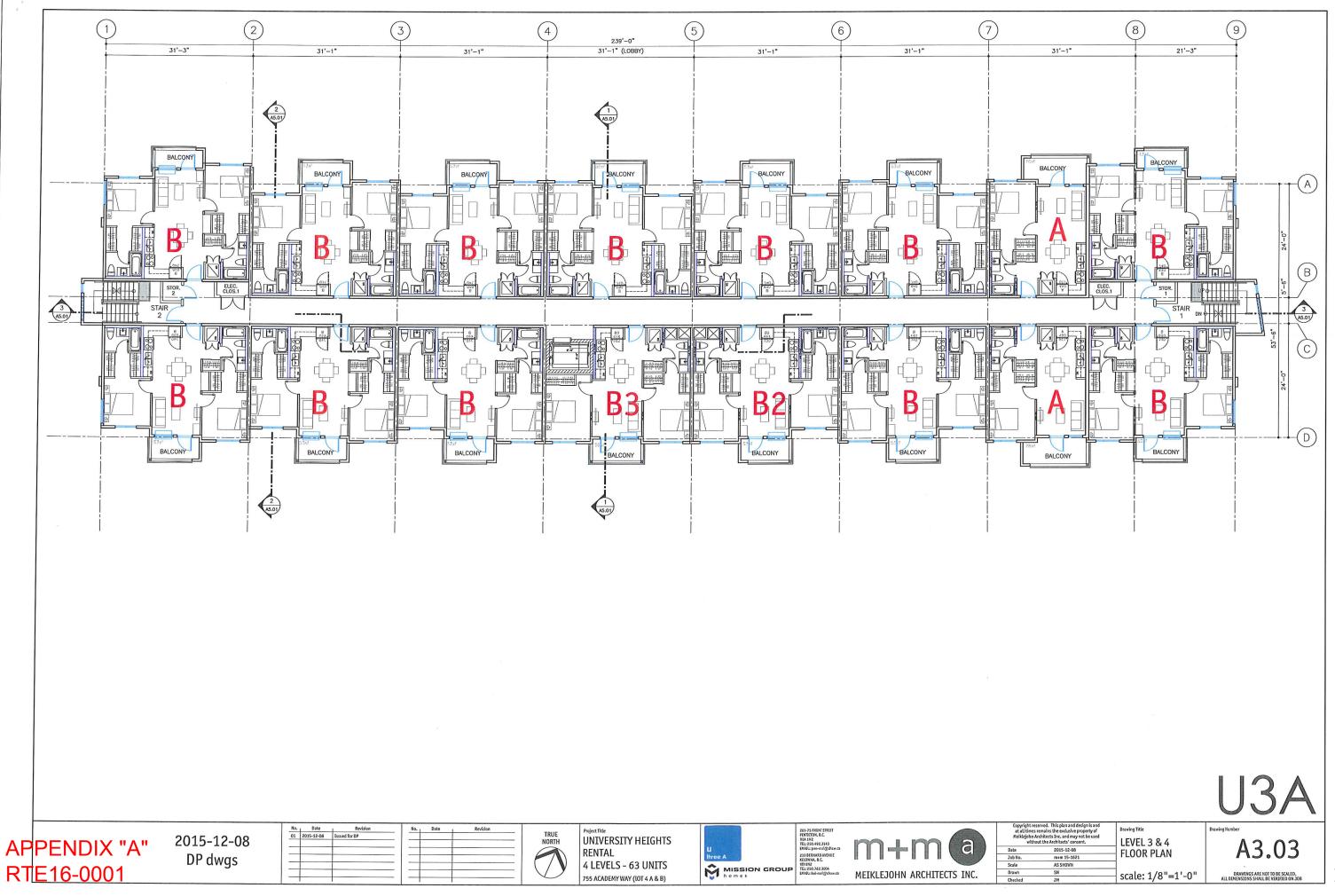




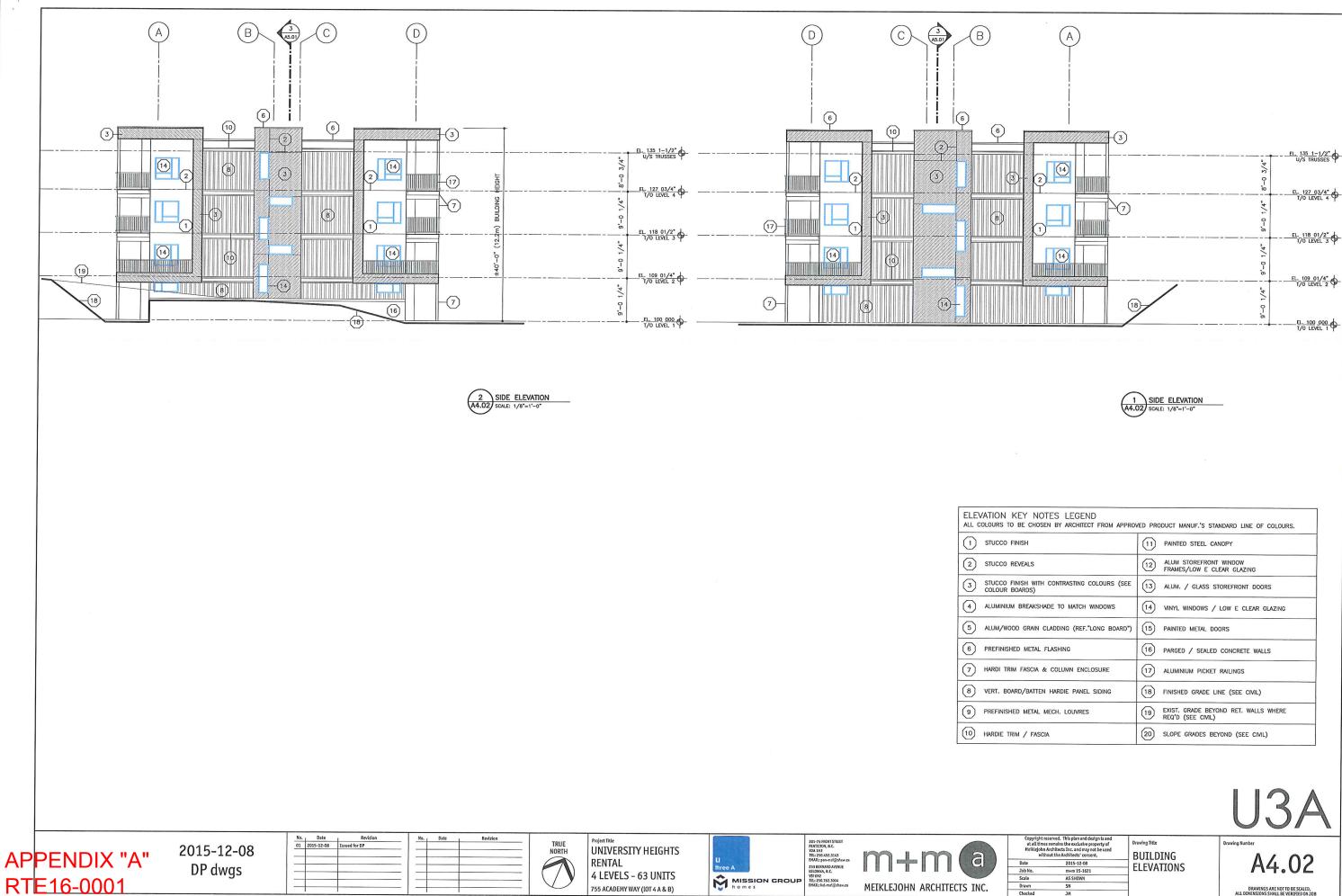
# APPENDIX "A" RTE16-0001











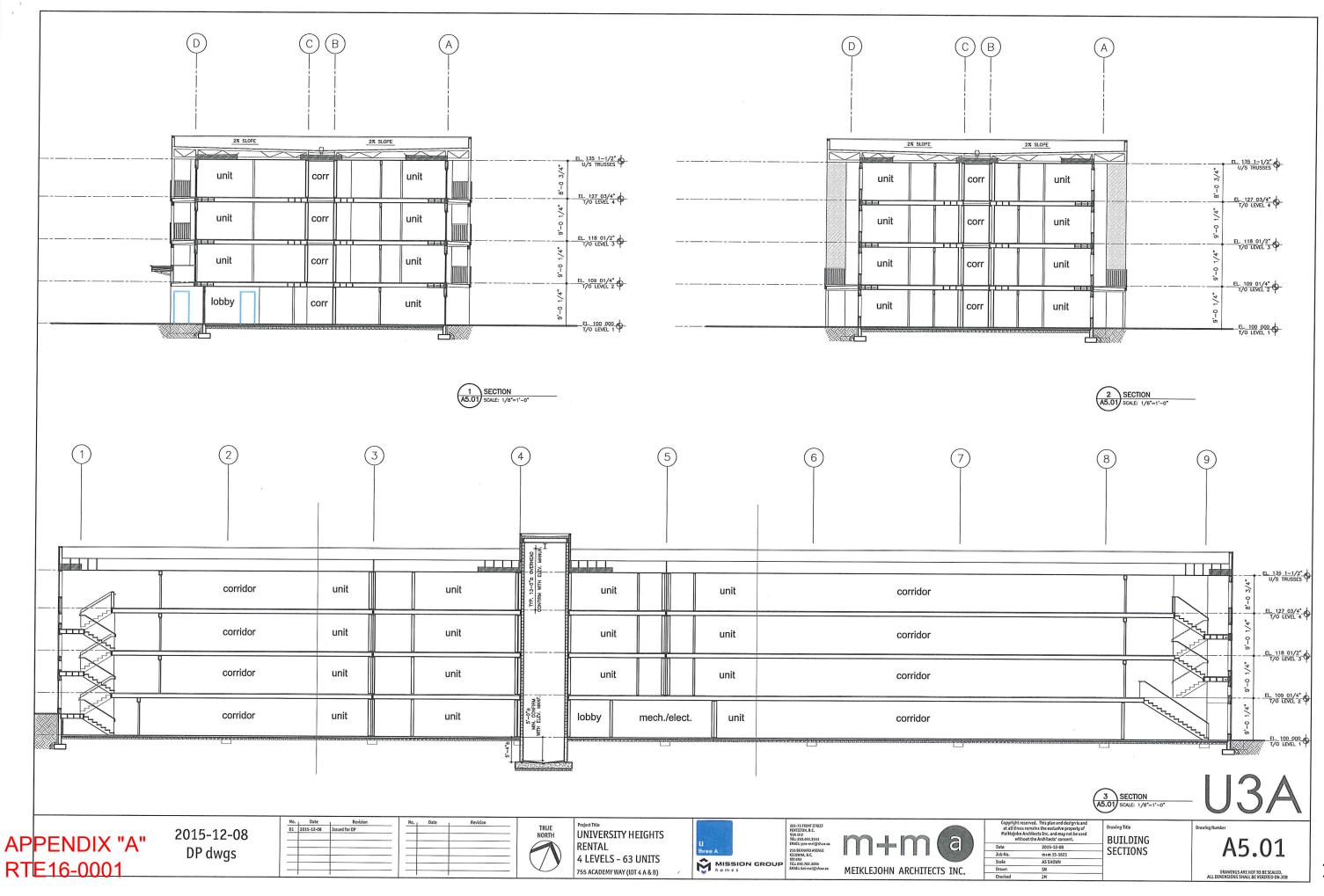
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Date	2015-12-08	
Job No.	m+m 15-1621	
Scale	AS SHOWN	
Drawn	SN	
Checked	ли	

DRAWINGS ARE NOT TO BE SCALED. ALL DIMENSIONS SHALL BE VERIFIED ON JO

URE	17	ALUMINIUM PICKET RAILINGS
DING	18	FINISHED GRADE LINE (SEE CIVIL)
	(19)	EXIST. GRADE BEYOND RET. WALLS WHERE REQ'D (SEE CML)
	20	SLOPE GRADES BEYOND (SEE CIVIL)

BE CHOSEN BY ARCHITECT FROM APPRO	VED PRO	DUCT MANUF.'S STANDARD LINE OF COLOURS.
SH	(11)	PAINTED STEEL CANOPY
/EALS	(12)	ALUM STOREFRONT WINDOW FRAMES/LOW E CLEAR GLAZING
SH WITH CONTRASTING COLOURS (SEE ARDS)	13	ALUM. / GLASS STOREFRONT DOORS
BREAKSHADE TO MATCH WINDOWS	14	VINYL WINDOWS / LOW E CLEAR GLAZING
GRAIN CLADDING (REF."LONG BOARD")	15	PAINTED METAL DOORS
METAL FLASHING	(16)	PARGED / SEALED CONCRETE WALLS
FASCIA & COLUMN ENCLOSURE	17	ALUMINIUM PICKET RAILINGS
)/BATTEN HARDIE PANEL SIDING	18	FINISHED GRADE LINE (SEE CIVIL)
METAL MECH. LOUVRES	(19)	EXIST. GRADE BEYOND RET. WALLS WHERE REQ'D (SEE CML)





## CITY OF KELOWNA

## BYLAW NO. 11238

## Housing Agreement Authorization Bylaw - U Three - Mission Group Rentals Ltd., Inc. No. BC1065198 - 805 Academy Way

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 U Three Mission Group Rentals Ltd., Inc. No. BC1065198 for the lands known as Lot 1, Section 3 and 10, Township 23, ODYD, Plan EPP53793 located on 805 Academy Way, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "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

Mayor

City Clerk

### Appendix "A"

Page 1 PURPOSE-BUILT RENTAL HOUSING AGREEMENT THIS AGREEMENT dated for reference \_ affects: LEGAL DESCRIPTON OF PROPERTY SUBJECT TO THE AGREEMENT: Lot 1 Sections 3 & 10 Township 23 ODYD Plan EPP53793 ("Land") U3 - Mission Group Rentals Ltd. ("Owner") 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") 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;

And is

AND:

Α.

GIVEN THAT:

BETWEEN:

- Β. 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:

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### 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 self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing and does not include buildings that are stratified; and

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

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

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- (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;
- (I) 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 must be performed, made or exercised acting reasonably.
- **1.3 Purpose of Agreement** The Owner and the City agree that:
  - 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) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting

Page 4

development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and

(c) 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

- **2.0** Land Use Restrictions The Owner and the City herby covenant and agree as follows:
  - (a) The Land must be used only in accordance with this Agreement;
  - (b) The Owner will design, construct and maintain a building or buildings providing 63 Dwelling Units as purpose-built rental housing;
  - (c) The Owner acknowledges that the City will not support applications to stratify the building and allow the identified purpose-built rental dwellings 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

- 3.0 Purchaser Qualifications The City and the Owner agree as follows:
  - (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing purpose built rental Dwelling Unit(s) 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 identified purpose- built rental Dwelling Unit(s) are available in accordance with this Agreement.

### 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; and
  - (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
  - (d) should the owner request that the notice of this agreement be lifted from the title of the Land, ensuring that the request is made no sooner than ten (10) years from the date of this agreement, repayment of any rental grant received from the City will be required. Funds received would be directed to the Housing Opportunities Reserve Fund.

Page 5

### 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 must 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 must 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

Page 6

breach of this Agreement.

- **4.10** Further Acts The Owner shall 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 Nam

ROSE HUGHES A COMMISSIONER FOR TAKING AFFIDAVITS FOR BRITISH COLUMBIA 1435 Water Street, Kelowna, B.C.

Address

"**OWNER**" by its authorized signatories:

Randall Shier

Print Name:

Occupation

Print Name:

		Page 7
SIGNED, SEALED & DELIVERED in ) the presence of: ) )	<b>CITY OF KELOWNA</b> by its authorized signatories:	
Signature of Witness	Mayor	
Print Name )	City Clerk	
Address )		
Occupation		

### **REPORT TO COUNCIL** City of Kelow Date: August 8, 2016 RIM No. 0940-00 To: City Manager From: Community Planning Department (AC) RTE15-0003 Owner: Davara Holding Ltd Application: Address: 305 Homer Road Applicant: Davara Holding Ltd Subject: **Revitalization Tax Exemption**

## 1.0 Recommendation

THAT Council approves the City of Kelowna entering into a Revitalization Tax Exemption Agreement with Davara Holding Ltd for Lot 1, Section 27, Township 26, ODYD, Plan KAP18004, located on 305 Homer Road, Kelowna, BC, in the form attached to the report from Community Planning dated August 8, 2016;

AND THAT the Mayor and City Clerk be authorized to execute the Revitalization Tax Exemption Agreement.

## 2.0 Purpose

To enter into a 10 year Revitalization Tax Exemption Agreement with Davara Holding Ltd in accordance with Revitalization Tax Exemption Program Bylaw No. 9561.

## 3.0 Background

The subject property is designated as MRL - Multiple Unit Residential (Low Density) in the Official Community Plan (OCP) and is zoned RM3 - Low Density Multiple Housing. The Building Permit was submitted on March 24, 2016 and was issued on May 13<sup>th</sup>, 2016. Occupancy for the subject property is expected prior to spring 2017. In addition, the Development Permit and Development Variance Permit for the nine unit, three bedroom, rental townhome was approved April 26, 2016 by Council under DP15-0221/DVP15-0222.

The property is in the Purpose-Built Rental Housing Projects category as described by the Revitalization Tax Exemption Program Bylaw No. 9561. In this category, projects will be considered for a tax incentive as long as:

- 1. The vacancy rate that is at or below 3%
- 2. The subject property has a Housing Agreement (for up to 10 years)
- 3. Are in compliance with the OCP Future Land Use designation as at May 30, 2011.

Over the last few years, rental housing, especially three bedroom units, have been in great demand. According to CMHC at the end of 2015 the total vacancy rate in the Kelowna CMA was

0.7% compared to 1.0% the year prior. In the Rutland zone the vacancy rate dropped even more from 0.8% to 0.1%. Therefore, the vacancy rate requirement is met. The Housing Agreement (for up to 10 years) requirement is met and was approved by Council on May  $2^{nd}$ , 2016. Lastly, the subject property is in compliance with the OCP Future Land Use designation of MRL - Multiple Unit Residential (Low Density).

Therefore, with all requirements met the subject property is qualified to receive 100% of the Revitalization Amount on the parcel. The exemption will be valid for the tax years 2018-2027.

### 4.0 Internal Circulation:

Revenue Manager, Financial Services

### 5.0 Existing Policy:

Revitalization Tax Exemption Program Bylaw No. 9561

### 6.0 Application Chronology:

Date of Application Received: September 18, 2015

Report prepared by:

Adam &	Cseke,	Planner	Jenna Ratzlaff, Planner
Approv	ved for Ir	clusion:	Terry Barton, Urban Planning Manager
Attach	ments:		
Draft R	evitalizat	tion Tax Exe	mption Agreement

Applicant's Rationale

Cc: Lynn Walter and Matt Friesen, Revenue Branch

### BL10566, BL10674 amended SCHEDULE "B" and BL10974 replaced SCHEDULE "B":

### SCHEDULE "B" Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ is

### **BETWEEN:**

Davara Holdings Ltd 1-911 Borden Ave, Kelowna B.C V1Y 6A5 (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 [305 Homer Road] legally described as Lot 1 Section 27 Township 26 ODYD Plan 18004 PID 008-329-796 (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 9 purpose built rental units

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** - Refers to the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the property resulting from the construction or

alterations as outlined in section 1 of this agreement;

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 this agreement.

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 obtain a building permit from the City for the Project on or before September 1, 2016;

b. 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" and the Project must be officially opened for use as 9 rental townhouse units and for no other use, by no later than July 15, 2017;

c. The Owner must submit a copy of the Occupancy Permit and Revitalization Tax Exemption Agreement to the City of Kelowna's Revenue Branch before the City will issue the Tax Exemption Certificate.

d. The completed Project must substantially satisfy the performance criteria set out in Appendix "B" hereto, as determined by the City's Urban Planning Manager or designate, in their sole discretion, acting reasonably.

6. Calculation of Calculation of Revitalization Tax Exemption - the amount of the Tax Exemption shall be equal to:

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 the taxation years 2018 to 2027, inclusive.

### 8. {deleted}

9. **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.

10. Effect of Stratification - if the Owner stratifies the Parcel or the Project 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, where a Housing Agreement exists in relation to the Parcel or the Project which limits ability to stratify, the Housing Agreement is still complied with.

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.

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: Fax:

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

Davara Holdings Ltd. 1-911 Borden Ave Kelowna B.C V1Y 6A5

Attention: David Sargent Fax:

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 by its Authorized signatories: 2 6. 2 Name:

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

### Schedule "C"

### Tax Exemption Certificate

In accordance with the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 (the "Bylaw"), and in accordance with a Revitalization Tax Exemption Agreement dated for reference day \_\_\_\_\_ day of \_\_\_\_\_\_, 2016 (the "Agreement") entered into between the City of Kelowna (the "City") and Mission Group Holdings Ltd. (the "Owner"), the registered owner(s) of Lot 1 Section 27 Township 26 ODYD Plan 18004 PID 008-329-796 (the "Parcel"):

This certificate certifies that the Parcel is subject to a Revitalization Tax Exemption, for each of the taxation years 2018-2027 inclusive, equal to:

1. Purpose-Built Rental Housing Project, 100% of the Revitalization Amount attributed to Building Permit No. BP 52592 and BP 52817 between 2015 (the calendar year before the commencement of construction of the project) and 2016 (the calendar year in which the Revitalization Tax Exemption Certificate is issued).

Any construction of a new improvement or alteration of an existing improvement, on Parcel described above, undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration;

The maximum Revitalization Tax Exemption authorized must not exceed the increase in the assessed value of improvements on the property resulting from the construction or alteration attributed to Building Perm No: BP 52592 and BP 52817 between 2015 (the calendar year before the commencement of construction of the project) and 2016 (the calendar year in which the Revitalization Tax Exemption Certificate is issued);

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. The Revitalization Tax Exemption is provided under the following conditions:

- 1. The Owner does not breach any term condition or provision of, and performs all obligation set out in, the Agreement and the Bylaw;
- 2. The Owner has not sold all or any portion of his or her equitable or legal fee simple interest in the Parcel without the transferee taking an assignment of the Agreement, and agreeing to be bound by it;
- 3. The Owner, or a successor in title to the Owner, has not allowed the property taxes for the Parcel to go into arrears or to become delinquent;
- 4. The Exempt Use (as defined in the Agreement) of the Project is not discontinued;

If any of these conditions are not met then the Council of the City of Kelowna may cancel this Revitalization Tax Exemption Certificate. If such cancellation occurs, the Owner of the Parcel, or a successor in title to the Owner as the case may be, shall remit to the City an amount equal to the value of the exemption received after the date of the cancellation of the certificate.

Davara Holdings Ltd #1 911 Borden Ave Kelowna B.C v1y 6a5

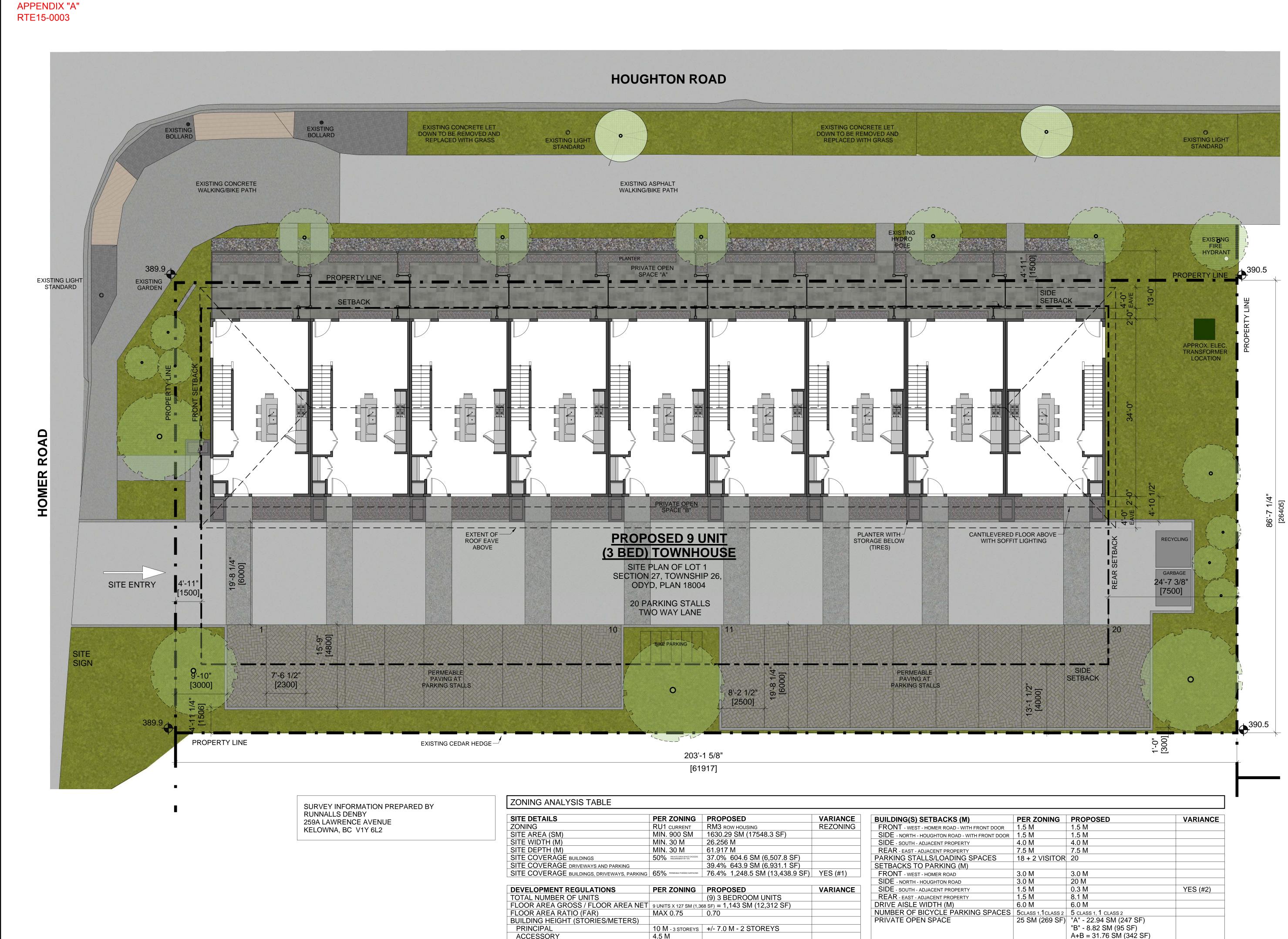
City of Kelowna Planning Department

9/10/2015

## RE: Rationale 305 Homer Road Development Proposal

Davara Holdings proposal to develop an infill townhome project along the Houghton Road multi use corridor adheres to the City of Kelowna OCP land use designation, complies with urban design principals, provides ground oriented affordable family housing and follows sustainability initiatives by:

- Selecting a site which conforms to the future land use designation intended for the area and borders the Rutland urban center
- Expanding the City of Kelowna's rental housing options
- Fulfilling the City's goals of promoting infill development along the Houghton multi use corridor
- Contributing to the OCP policy relating to Ground Oriented Housing
- Creating safe family housing within walking distance of parks, schools and amenities
- Conforming to surrounding building heights and massing by remaining below 3 stories
- Siting the building and front doors close to the multi-use corridor to allow for a visual and physical connection between the private and public realm
- Locating all parking to the rear of the site and incorporating landscape buffers to ensure all parking is screened from the multi-use corridor
- Creating enduring, safe solutions through the use of CPTED (Crime Prevention Through Environmental Design) principles
- Abandoning drive aisle let downs currently crossing the multi-use corridor
- Providing an efficient pedestrian focused site plan by reducing the visual impact of hardscape through the use of differing materials and permeable paving treatments
- Supplying attainable housing that appeals to the greatest need group of young families
- Establishing a high standard of comfort and appearance through function, beauty, and visual interest, including construction materials that project an image of value and durability
- Ensuring superior maintenance and operations to create an obvious sense of care and pride for the space, to promote a sense of pride in ownership for the community



SITE DETAILS	PER ZONING	PROPOSED	VARIANCE	<b>BUILDING(S) SETBACKS (M)</b>
ZONING	RU1 CURRENT	RM3 ROW HOUSING	REZONING	FRONT - WEST - HOMER ROAD - WITH FRONT
SITE AREA (SM)	MIN. 900 SM	1630.29 SM (17548.3 SF)		SIDE - NORTH - HOUGHTON ROAD - WITH FROM
SITE WIDTH (M)	MIN. 30 M	26.256 M		SIDE - SOUTH - ADJACENT PROPERTY
SITE DEPTH (M)	MIN. 30 M	61.917 M		<b>REAR</b> - EAST - ADJACENT PROPERTY
SITE COVERAGE BUILDINGS	50% PRIVATE OPEN SPACE EXCEEDS REQUIREMENT BY 10%	37.0% 604.6 SM (6,507.8 SF)		PARKING STALLS/LOADING SPACE
SITE COVERAGE DRIVEWAYS AND PARKING		39.4% 643.9 SM (6,931.1 SF)		SETBACKS TO PARKING (M)
SITE COVERAGE BUILDINGS, DRIVEWAYS, PARKING	65% PERMEABLE PARKING SURFACING	76.4% 1,248.5 SM (13,438.9 SF)	YES (#1)	FRONT - WEST - HOMER ROAD
				SIDE - NORTH - HOUGHTON ROAD
DEVELOPMENT REGULATIONS	PER ZONING	PROPOSED	VARIANCE	SIDE - SOUTH - ADJACENT PROPERTY
TOTAL NUMBER OF UNITS		(9) 3 BEDROOM UNITS		REAR - EAST - ADJACENT PROPERTY
FLOOR AREA GROSS / FLOOR AREA NET	9 UNITS X 127 SM (1,36	<sup>58</sup> SF) = 1,143 SM (12,312 SF)		DRIVE AISLE WIDTH (M)
FLOOR AREA RATIO (FAR)	MAX 0.75	0.70		NUMBER OF BICYCLE PARKING SF
BUILDING HEIGHT (STORIES/METERS)				PRIVATE OPEN SPACE
PRINCIPAL	10 M - 3 STOREYS	+/- 7.0 M - 2 STOREYS		
ACCESSORY	4.5 M			



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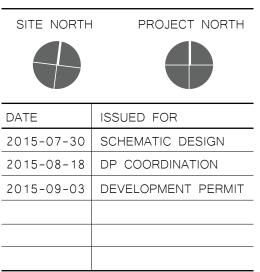


GENERAL CONDITIONS

Check and verify all critical details and dimensions check and verify all critical defails and dimensions prior to the start of construction and contact this office if any clarification is required. Written dimensions will always take precedence over scaled dimensions. This drawing must be read in conjunction with all drawings & spec's issued for this project. Contractor is responsible to notify designer about conflicting design instructions.

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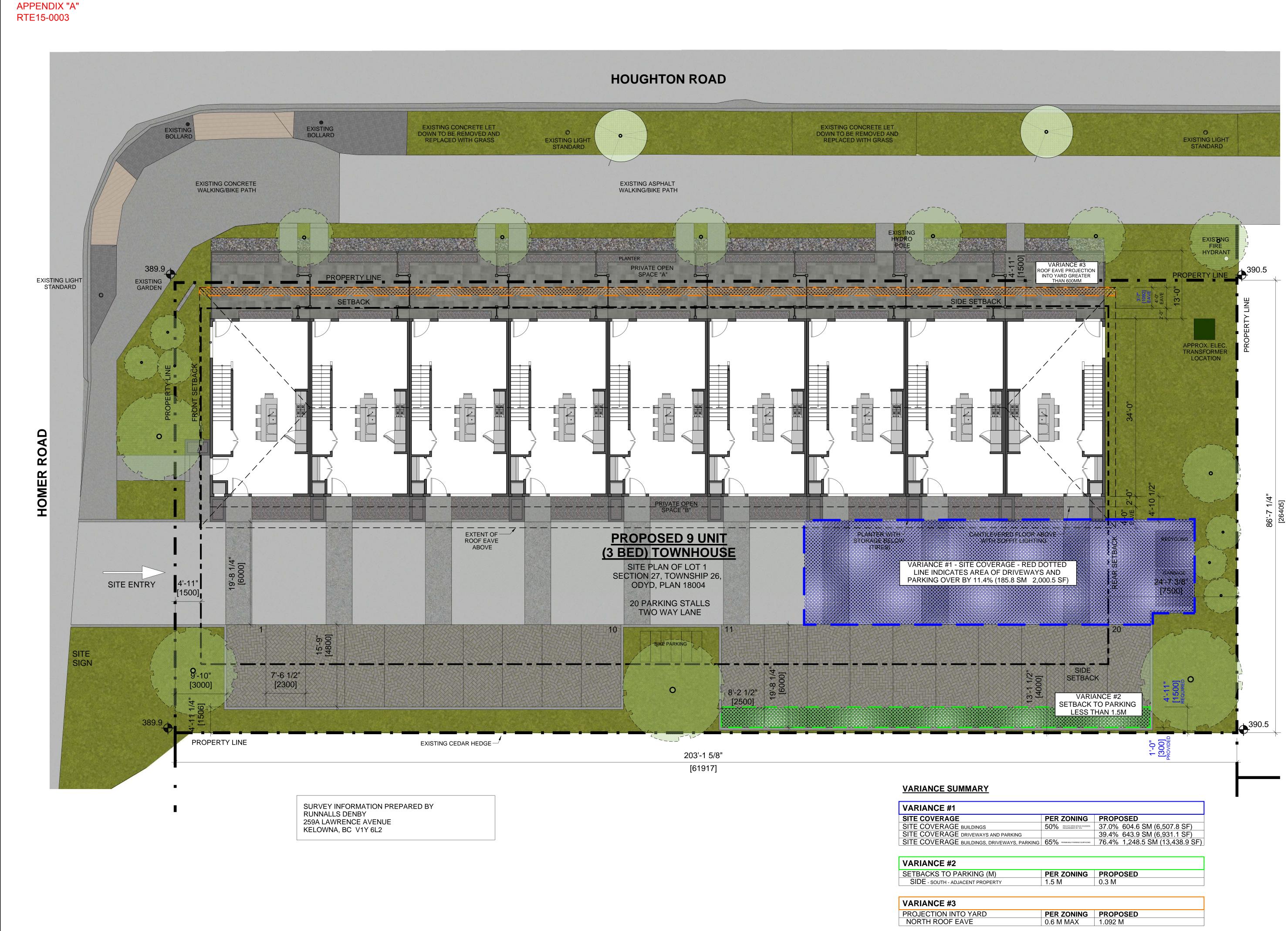
PROJECT TITLE

#1510

## Homer Townhomes 305 Homer Road, Kelowna, BC

SHEET TITLE

Site Plan SCALE 1/8" = 1'-0" DRAWING NUMBER



VARIAN	CE #1
SITE COV	ERAGE
SITE COV	ERAGE BUILDING
SITE COV	ERAGE DRIVEWA
SITE COV	ERAGE BUILDING



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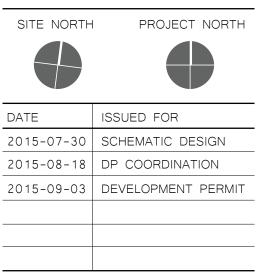


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PROJECT TITLE

#1510

## Homer Townhomes 305 Homer Road, Kelowna, BC

SHEET TITLE

# Site Plan

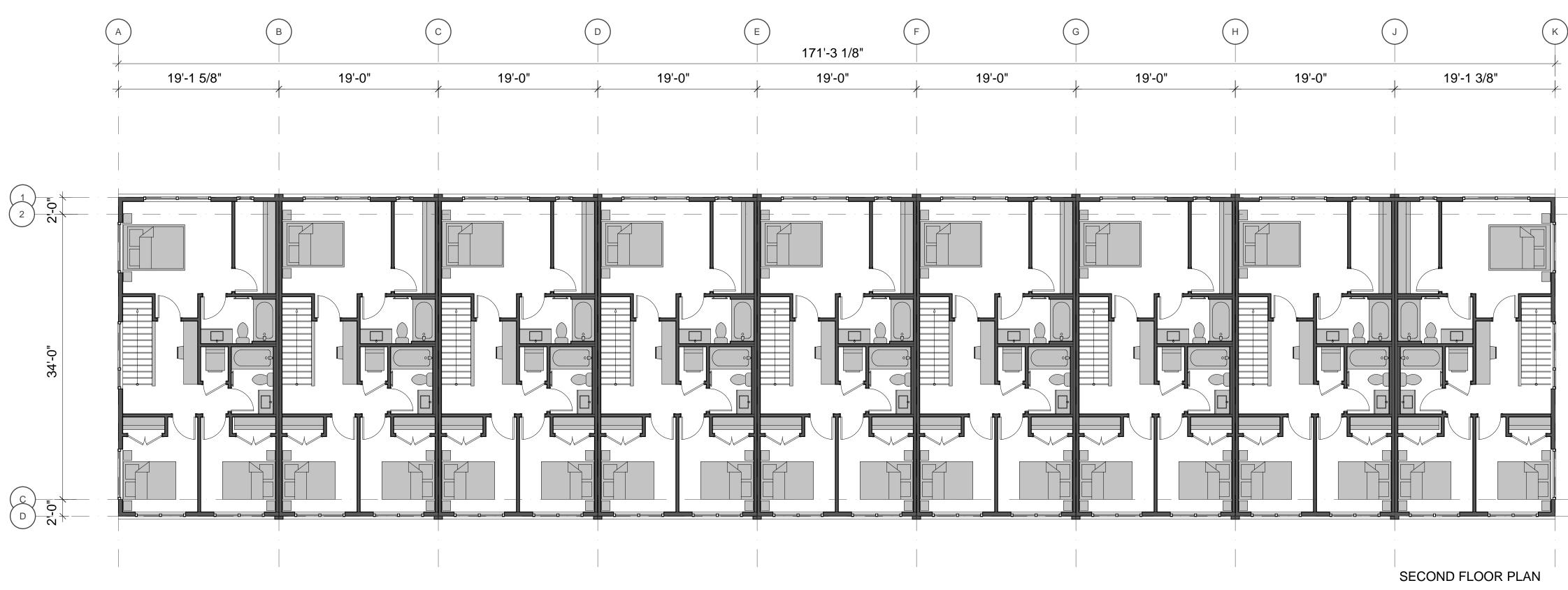
Variance Summary SCALE 1/8" = 1'-0"

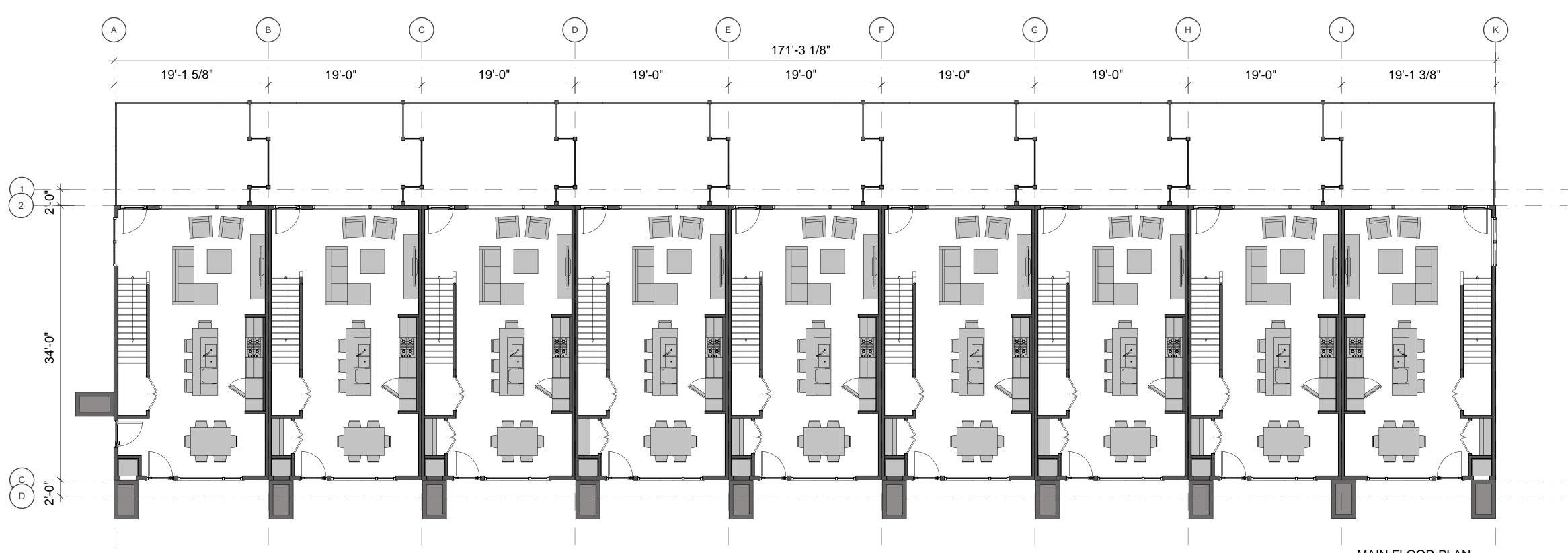
DRAWING NUMBER

А

275

## APPENDIX "A" RTE15-0003





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MAIN FLOOR PLAN



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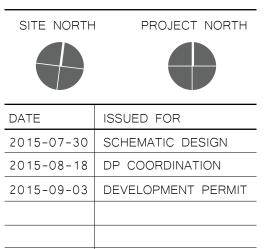


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PROJECT TITLE

#1510

## Homer Townhomes 305 Homer Road, Kelowna, BC

SHEET TITLE

Floor Plans SCALE 1/8" = 1'-0"

DRAWING NUMBER

A2. 276

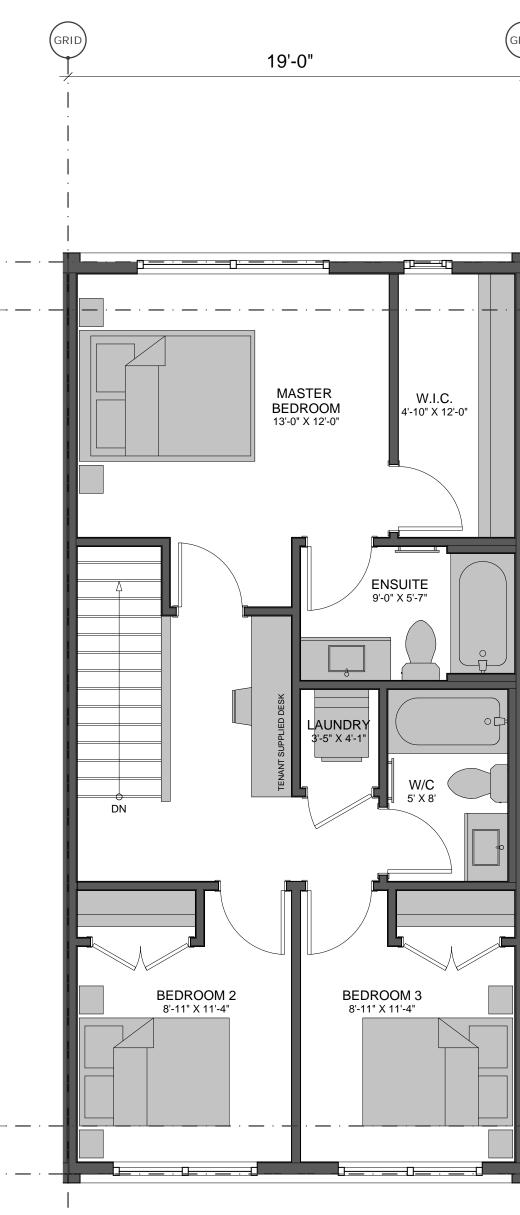










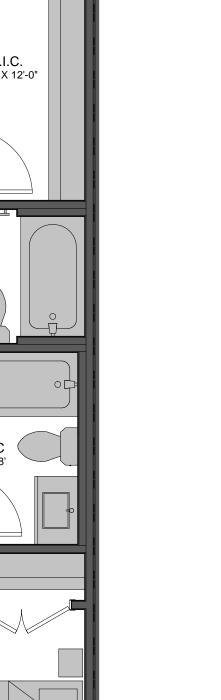


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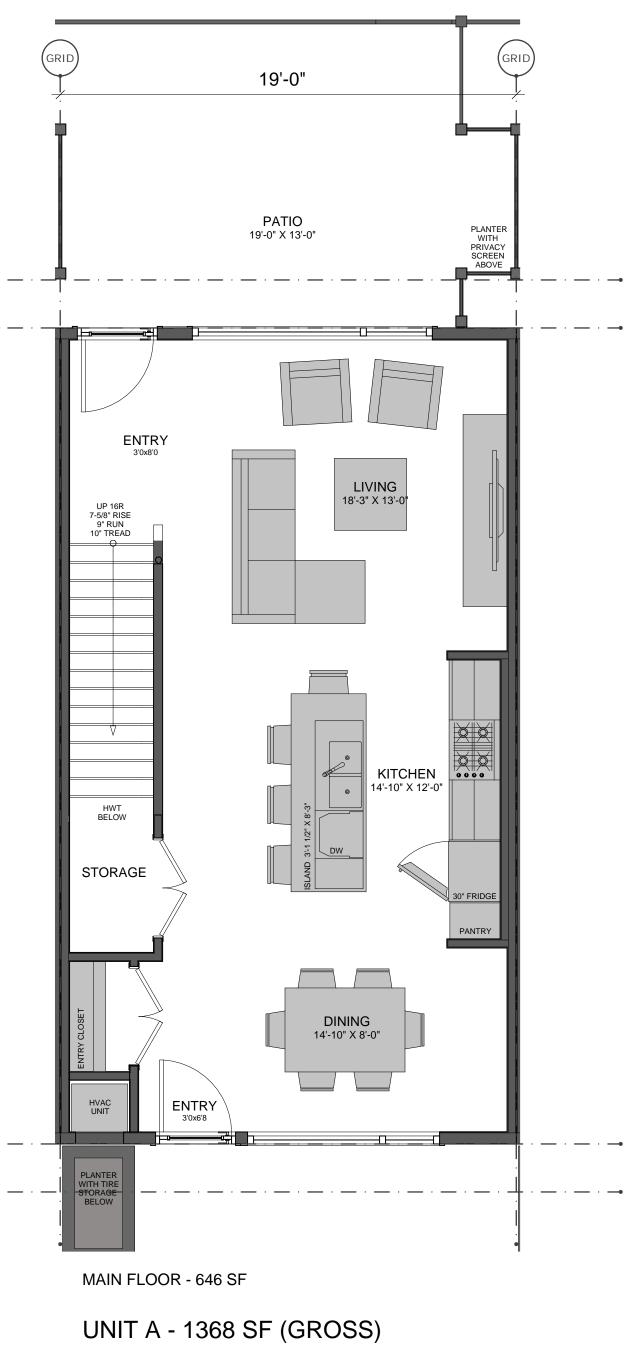
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SECOND FLOOR - 722 SF



R.

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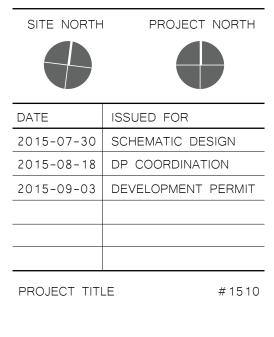
GENERAL CONDITIONS

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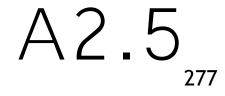


Homer Tov	vnhomes
305 Homer Road,	Kelowna, BC

SHEET TITLE

Unit Plans SCALE

DRAWING NUMBER



1/4" = 1'-0"



**REAR ELEVATION - SOUTH** 



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SITE NORTH PROJECT NORTH

DATE	ISSUED FOR
2015-07-30	SCHEMATIC DESIGN
2015-08-18	DP COORDINATION
2015-09-03	DEVELOPMENT PERMIT
PROJECT TITLE #15	

Homer Townhomes 305 Homer Road, Kelowna, BC

SHEET TITLE

Elevations - 3D SCALE 1/8" = 1'-0" DRAWING NUMBER



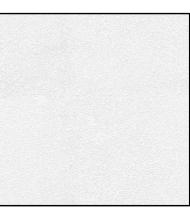








# FINISH MATERIAL LEGEND



WHITE ACRYLIC STUCCO



GRAIN SIDING -TABLE WALNUT

2D SIDE ELEVATION - EAST







SHINGLES

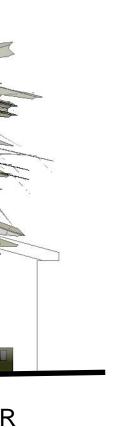


WHITE VINYL WINDOWS





ALUMINUM PICKET RAILING







ALUMINUM PRIVACY FENCING



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## GENERAL CONDITIONS

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SITE NORTH

PROJECT NORTH

ISSUED FOR
SCHEMATIC DESIGN
DP COORDINATION
DEVELOPMENT PERMIT

PROJECT TITLE

#1510

## Homer Townhomes 305 Homer Road, Kelowna, BC

SHEET TITLE

Elevations - 2D SCALE 1/8" = 1'-0"

DRAWING NUMBER

A3 279





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## GENERAL CONDITIONS

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SITE	NORTH	
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PROJECT NORTH

DATE	ISSUED FOR
2015-07-30	SCHEMATIC DESIGN
2015-08-18	DP COORDINATION
2015-09-03	DEVELOPMENT PERMIT

PROJECT TITLE

#1510

## Homer Townhomes 305 Homer Road, Kelowna, BC

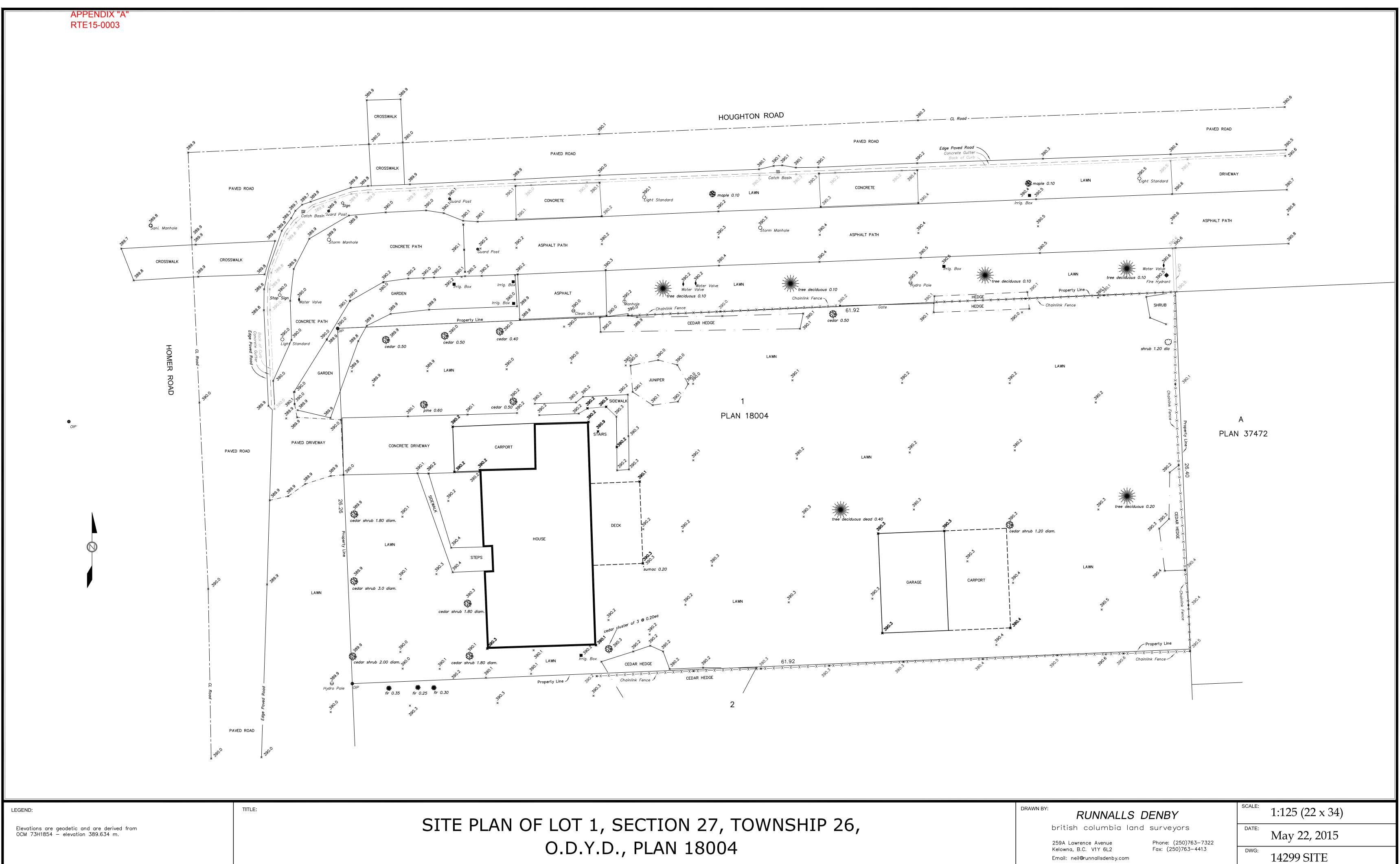
SHEET TITLE

# 3D Elevations and Site Sections

SCALE DRAWING NUMBER



1/8" = 1'-0"



O.D.Y.D., PLAN 18004 (305 HOMER ROAD)

DAVARA	HOLDINGS
	IIOLDINGO

CLIENT:

$\Box V$ .	
	(

FILE No:

## CITY OF KELOWNA

## BYLAW NO. 11239

## Housing Agreement Authorization Bylaw - Davara Holdings Ltd., Inc. No. BC0797640 - 305 Homer Road

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 Davara Holdings Ltd., Inc. No. BC0797640 for the lands known as Lot 1, Section 27, Township 26, ODYD, Plan 18004 located on 305 Homer Road, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "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

Mayor

City Clerk

## PURPOSE-BUILT RENTAL HOUSING AGREEMENT

May 11,2016 THIS AGREEMENT dated for reference

## LEGAL DESCRIPTON OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 1 Section 27 Township 26 Osoyoos Division Yale Plan 18004

("Land")

APPENDIX "B"

RTE15-0003

And is

BETWEEN: Davara Holdings Ltd, 1-911 Borden Ave, Kelowna B.C V1Y 6A5

("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 self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing and does not include buildings that are stratified; 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;
- (I) 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 must 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) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting

development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and

(c) 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

- 2.0 Land Use Restrictions The Owner and the City herby covenant and agree as follows:
  - (a) The Land must be used only in accordance with this Agreement;
  - (b) The Owner will design, construct and maintain a building or buildings providing 9 Dwelling Units as purpose-built rental housing;
  - (c) The Owner acknowledges that the City will not support applications to stratify the building and allow the identified purpose-built rental dwellings 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

- 3.0 **Purchaser Qualifications** The City and the Owner agree as follows:
  - (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing purpose built rental Dwelling Unit(s) 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 identified purpose-built rental Dwelling Unit(s) are available in accordance with this Agreement.

### 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; and
  - (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
  - (d) should the owner request that the notice of this agreement be lifted from the title of the Land, ensuring that the request is made no sooner than ten (10) years from the date of this agreement, repayment of any rental grant received from the City will be required. Funds received would be directed to the Housing Opportunities Reserve Fund.

- (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 must 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 must promptly give notice of its new address or facsimile number, or both, it his 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.

- Further Acts The Owner shall do everything reasonably necessary to give effect to the intent of this 4.10 Agreement, including execution of further instruments.
- Severance If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having 4.11 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.
- Equitable Remedies The Owner acknowledges and agrees that damages would be an inadequate 4.12 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.
- No Other Agreements This Agreement is the entire agreement between the parties regarding its subject 4.13 and it terminates and supersedes all other agreements and arrangements regarding its subject.
- Amendment This Agreement may be discharged, amended or affected only by an instrument duly 4.14 executed by both the Owner and the City.
- Enurement This Agreement binds the parties to it and their respective successors, heirs, executors and 4.15 administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- Deed and Contract By executing and delivering this Agreement each of the parties intends to create 416 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:

<u>·Mcorbud</u> Signature of Witness

MARDELLE CORBETT

Print Name

1435 NATHER ST Address RELOWNA B

PLANNING TECHNICIAN

Occupation

MARDELLE A. CORBETT A COMMISSIONER FOR TAKING AFFIDAVITS FOR BRITISH COLUMEN 1435 Water Street, Kelowne D.C.

"OWNER" by its authorized signatories: Name

Print Name:

# APPENDIX "B" RTE15-0003

SIGNED, SEALED & DELIVERED in )
the presence of (
Signature of Witness
Drint Nome
AFFIDAVITS WITHIN BRITISH COLUMBIA
Address

**CITY OF KELOWNA** by its authorized signatories:

h Basran, MAYORMayor

Stephen FlemingCity Clerk City Clerk

Occupation

# Report to Council

Date: 8/8/2016

File: 1125-51-032

To: City Manager

From: J. Säufferer, Manager, Real Estate Services

Subject: Road Closure - Portion of Kneller Road adj to 1170 Hwy 33 West

# Recommendation:

THAT Council receives, for information, the Report from the Manager, Real Estate Services dated August 8, 2016, recommending that Council adopt the proposed road closure of a portion of road adjacent to 1170 Hwy 33 West;

AND THAT Bylaw No.11259, being proposed road closure of a portion of road adjacent to 1170 Hwy 33 West, be given reading consideration.

# Purpose:

To close a portion of Kneller Road for consolidation with the adjacent property.

# Background:

The closure of Kneller Road is appropriate for the following reasons:

- The Ministry of Transportation and Highways has indicated that Kneller Road should be closed at Hwy 33 West, highway access will be maintained for 1220 Hwy 33 West;
- The Kneller Road/Hwy 33 West intersection will be decommissioned in lieu of a future Gerstmar Road/Hwy 33 West intersection, which will be achieved via the extension of Gerstmar Road through the subject property (as currently protected for via a Highway Reservations agreement).

The entire width of Kneller Road adjacent to the development site (as shown on Schedule A) with the exception of an appropriate point of access for 1220 Hwy 33 West. Any city or thirdparty utilities located within the road closure area will be protected via statutory right of way.

# Legal/Statutory Authority:

Section 26 and 40, Community Charter



City Manager August 8, 2016 Page 2 of 3 Pages City Manager August 8, 2016 Page 3 of 3 Pages

# Internal Circulation:

Manager, Transportation & Mobility Manager, Development Engineering Manager, Urban Planning Department Manager, Community Planning

# Considerations not applicable to this report:

Legal/Statutory Procedural Requirements: Existing Policy: Financial/Budgetary Considerations: Personnel Implications: External Agency/Public Comments: Communications Comments: Alternate Recommendation:

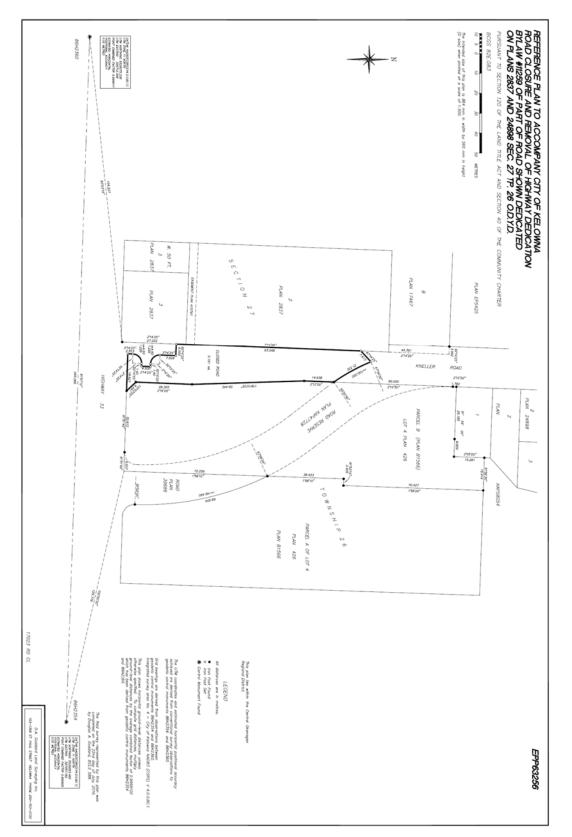
Submitted by: J. Säufferer, Manager, Real Estate Services

Approved for inclusion: D. Edstrom, Director, Real Estate

Attachments: 1. Schedule A - Survey Plan

cc: T. Barton, Manager, Urban Planning
P. Irani, Manager, Development Engineering
M. Hasan, Manager, Transportation & Mobility
R. Smith, Department Manager, Community Planning

Schedule A



# **CITY OF KELOWNA**

# BYLAW NO. 11259

# Road Closure and Removal of Highway Dedication Bylaw (Portion of Road Adjacent to 1170 Hwy 33 W)

# A bylaw pursuant to Section 40 of the Community Charter to authorize the City to permanently close and remove the highway dedication of a portion of highway on Hwy 33 W

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

- 1. That portion of highway attached as Schedule "A" comprising 0.191 Ha shown in bold black as Closed Road on the Reference Plan prepared by Douglas A. Goddard, B.C.L.S., is hereby stopped up and closed to traffic and the highway dedication removed.
- 2. The Mayor and City Clerk of the City of Kelowna are hereby authorized to execute such conveyances, titles, survey plans, forms and other documents on behalf of the said City as may be necessary for the purposes aforesaid.

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

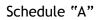
Approved Pursuant to Section 41(3) of the Community Charter this

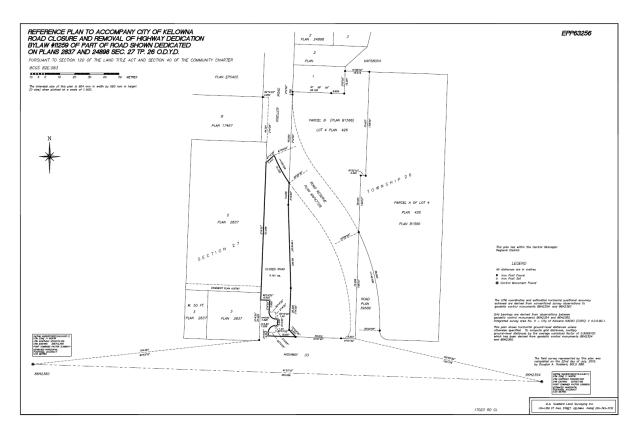
(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk





# Report to Council

Date:	August 8, 2016	Kelowna
File:	1140-40	Relowing
То:	City Manager	
From:	M. Olson, Manager, Property Management	
Subject:	Lease to the Justice Institute of British Columbia - Form Walrod Street	er Walrod School, 825

# Recommendation:

THAT Council approves the City entering into a three (3) year Lease Agreement with the Justice Institute of British Columbia, with the option to renew for one (1) additional term of two (2) years, in the form attached to the Report of the Manager, Property Management, dated August 8, 2016;

AND THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete the transaction.

# Purpose:

To obtain Council support to enter into a lease with the Justice Institute of British Columbia for a three (3) year term. for a three (3) year term.

# Background:

The City purchased the Walrod School from School District #23 in May of 2005 for future park purposes. At that time, the City sought a suitable tenant to occupy the buildings until the property was funded for park development. Justice Institute of British Columbia ("JIBC") has occupied the property since 2006 and has been a model tenant during this time.

As the City does not anticipate developing the property during the term of the proposed lease, Staff is recommending entering into a new lease agreement with JIBC at fair market value, as appraised by an independent third party.

# Financial/Budgetary Considerations:

Lease Agreement Highlights		
Term	3 Years	
Base Rent	\$60,000/ann.	
Percentage Rent	N/A	
Renewals	1 x 2 years	

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Internal Circulation: Director, Design & Construction Services Director, Recreation & Culture Services Director, Civic Operations Director, Infrastructure Planning Director, Corporate Services Director, Development Services Director, Regional Services Director, Subdivision, Agriculture & Environment Manager, Policy & Planning Fire Inspector

**Considerations not applicable to this report:** Legal/Statutory Authority: Legal/Statutory Procedural Requirements: Existing Policy: Personnel Implications: External Agency/Public Comments: Communications Comments: Alternate Recommendation:

Submitted by: M. Olson, Manager, Property Management

Approved for inclusion: D. Edstrom, Director, Real Estate

Attachments: 1. Schedule A - Lease Agreement 2. Schedule B - PowerPoint Presentation

cc: I. Wilson, Manager, Parks Services

# MUNICIPAL FACILITY LEASE

BETWEEN:

CITY OF KELOWNA, a municipal corporation having Offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

(the "Landlord")

OF THE FIRST PART

AND:

JUSTICE INSTITUTE OF BC 715 McBride Boulevard, New Westminster, B.C. V3L 5T4

(the "Tenant")

OF THE SECOND PART

1

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THIS LEASE, dated the 1<sup>st</sup> day of December 2015, is made and entered into by the Landlord and the Tenant (the "Parties") named herein who, in consideration of the covenants herein contained, agree as follows:

# 1. BASIC TERMS, SCHEDULES, AND DEFINITIONS

Basic Terms:

(a)	Landlord: Address of Landlord:	CITY OF KELOWNA City Hall, 1435 Water Street Kelowna, B.C. V1Y 1J4 Ph: 250-469-8740 Fax: 250-862-3349 Email: molson@kelowna.ca
(b)	Tenant: Address of Tenant:	Justice Institute of BC 715 McBride Boulevard New Westminster, B.C. V3L 5T4 Ph: 604-528-5525 Fax: 604-528-5579 Email: repp@jibc.ca
(c)	Premises:	Walrod School Building 825 Walrod Street, Kelowna, B.C. (see Schedule A)
(d)	License Area:	Parking Area & Landscaped Area adjacent To the Premises (see Schedule A)
(e)	Initial Term: Commencement Date:	Three (3) Years December 1, 2015
(f)	Renewal Term (if any):	Two (2) Years
(g)	Annual Base Rent + Tax:	\$60,000 per annum for the Term
(h)	Security/Performance Deposit:	N/A
(h)	Property Taxes:	Tenant pays
(i)	Utilities:	Tenant pays
(j)	Permitted Use:	For the purpose of the Tenant's business as an Educational Institution

The foregoing Basic Terms are approved by the parties. Each reference in this Lease to any of the Basic Terms shall be construed to include the provisions set forth above as well as all of the additional terms and conditions of the applicable sections of this Lease where such Basic Terms are more fully set forth.

# 1.2 Schedules

All Schedules to this Lease are incorporated into and form an integral part of this Lease and are as follows:

SCHEDULE A	SUBJECT Site Plan of Premises and/or License Area
В	Definitions
С	Landlord & Tenant Responsibility Checklist
D	Certificate of Insurance

# 1.3 Definitions

In this Lease, the words, phrases and expressions set forth in Schedule B are used with the meanings defined therein.

# 2. PREMISES AND/OR LICENSE AREA

In consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed, and performed, the Landlord hereby demises and leases to the Tenant, and the Tenant leases from the Landlord, the Premises.

The Landlord furthermore grants a license (the "License") to the Tenant for non-exclusive use of the parking area and/or landscaped area outlined as the License Area in Schedule A, for purposes necessarily related to the permitted use of the Premises.

# 3. TERM

#### 3.1 Term

The Term of this Lease, and the related License, shall be for the initial term of three (3) years, beginning on the Commencement Date, and subject to earlier termination or renewal on the terms and conditions as set out herein.

# 3.2 Option to Renew

The Landlord covenants with the Tenant that if:

- (a) at the end of year three (3) the Tenant gives notice to the Landlord that the Tenant wishes to renew the Lease for years four (4) and five (5); and
- (b) at the time of giving such notice, the Tenant is not in breach of any covenant or condition herein contained and which has no been remedied within the time provided for in this Lease; and
- (c) the Tenant has duly and regularly throughout the initial term of three (3) years observed and performed the covenants and conditions herein contained,

then the Landlord, at the Landlord's sole option and acting reasonably, shall grant to the Tenant, at the Tenant's sole expense, a renewal lease of the Premises and License Area for the renewal term of two (2) years from December 1, 2018 to November 30, 2020 upon the same terms and conditions as are herein contained.

# 4. RENT

#### 4.1 Rent

The Tenant shall yield and pay to the Landlord, in the manner outlined in clause 4.2, at the office of the Landlord's accounts payable division, or at such other place as the Landlord may direct in writing, during the Term in lawful money of Canada without any set-off, abatement, compensation, or deduction whatsoever on the days and at the times hereinafter specified, Rent which shall include the aggregate of the sums specified in sub-clauses (a) and (b) below:

(a) Annual Base Rent

Annual Base Rent in the amount per annum set out in sub-clause 1.1(g) for each respective Lease Year.

(b) Additional Rent

In addition, but subject to any operating costs the Landlord expressly agrees to pay for its own account, the Tenant is responsible for all operating costs of whatever nature or kind in connection with the Premises and/or License Area including all applicable real estate taxes and other charges.

4.2 Payment of Rent

The Rent provided for in this Article shall be paid by the Tenant as follows:

(a) Annual Base Rent

The Annual Base Rent shall be paid in equal consecutive monthly instalments, in the amounts set out in sub-clause 1.1(g), in advance on the first day of each and every month during the Term. The first monthly instalment of the Annual Base Rent shall be paid by the Tenant on the Commencement Date. Where the Commencement Date is the first day of a month such instalment shall be in respect of such month; where the Commencement Date is not the first day of a calendar month, the Annual Base Rent for the period from the Commencement Date to the first day of the next ensuing calendar month shall be pro-rated on a per diem basis and paid on the Commencement Date and the first regular instalment of the Annual Base Rent shall be paid on the first day of the first full calendar month of the Term. Thereafter, subsequent monthly instalments shall each be paid in advance on the first day of each ensuing calendar month during the Term.

(b) Additional Rent Payments

In addition, the Tenant is responsible for all operating costs of whatever nature or kind in connection with the Premises and/or License Area including all applicable real estate taxes and other charges.

(c) Payment Format

The Tenant agrees to pay the Annual Base rent via Bank Transfer on a monthly basis.

# 4.3 Rent for Irregular Periods

All Rent reserved herein shall be deemed to accrue from day-to-day, and if for any reason it shall become necessary to calculate the Annual Base Rent for irregular periods of less than one year an appropriate pro-rata adjustment shall be made on a daily basis in order to compute the Annual Base Rent for such irregular period.

# 4.4 Waiver of Offset

The Tenant hereby waives and renounces any and all existing and future claims, offsets, and compensation against any Rent and agrees to pay such Rent regardless of any claim, offset, or compensation which may be asserted by the Tenant or on its behalf.

# 4.5 Application of Payments

All payments by the Tenant to the Landlord under this Lease shall be applied toward such amounts then outstanding hereunder as the Landlord determines and the Landlord may subsequently alter the application of any such payment.

# 4.6 Net Lease

The Tenant Acknowledges and agrees that it is intended that this Lease shall be a completely net lease for the Landlord except as shall be otherwise provided in the specific provisions contained in this Lease, and that the Landlord shall not be responsible during the Term for any costs, charges, expenses, and outlays of any nature whatsoever arising from or relating to the specific provisions contained in this Lease, shall pay all charges, impositions, and costs of every nature and kind relating to the Premises and/or License Area whether or not referred to herein and whether or not within the contemplation of the Landlord or the Tenant, and the Tenant covenants with the Landlord accordingly.

# 4.7 Interest on Overdue Rent

Overdue Rent payments shall be interest at the current Bank of Canada lending rate effective from the date the amount is due.

# 5. TENANT'S COVENANTS

# 5.1 Tenant's Covenants

The Tenant covenants with the Landlord as follows:

(a) Rent

To pay the Rent on the days and in the manner provided herein and to pay all other amounts, charges, costs, and expenses as are required to be paid by the Tenant to the Landlord or to others under this Lease.

(b) Occupancy and Permitted Use

To take possession of and occupy the Premises and/or License Area and commence to carry on business in all or substantially all of the Premises and/or License Area no later than 30 days after the Commencement Date, to use the Premises and/or License Area only for the purpose set out in clause 1(j) herein and not for any other purpose. (c) Waste and Nuisance

Not to commit or permit: any waste or injury to the Premises and/or License Area including the Leasehold Improvements and the trade fixtures therein; any overloading of the floors thereof; any conduct which impedes or, in the opinion of the Landlord acting reasonably, could constitute a nuisance to the Landlord or anyone else; any other use or manner of use which, in the opinion of the Landlord acting reasonably, may have an adverse impact on the reputation of the Premises.

(d) Insurance Risks

Not to do, omit to do, or permit to the done or omitted to be done upon the Premises and/or License Area anything which would cause the Landlord's cost of insurance to be increased (and, without waiving the foregoing prohibition, the Landlord may demand, and the Tenant shall pay to the Landlord upon demand, the amount of any such increase of cost caused by anything so done or omitted to be done) or which shall cause any policy of insurance to be subject to cancellation.

(e) Cleanliness

Not to permit the Premises and/or License Area to become untidy, unsightly, or hazardous, or permit unreasonable quantities of waste or refuse to accumulate therein, and at the end of each business day to leave the Premises in a clean and neat condition, to the satisfaction of the Landlord.

(f) Compliance with Laws

To comply at its own expense with all municipal, provincial, and federal laws, bylaws, regulations, and requirements pertaining to the operation and use of the Premises and/or License Area, the condition of the Leasehold Improvements, trade fixtures and equipment installed therein, and the making by the Tenant of any repairs, changes or improvements therein.

(g) Installations

To permit the Landlord during the Term, at the Tenant's cost, to install any equipment in or make alterations to the Premises and/or License Area necessary to comply with the requirements of any statute, law, bylaw, ordinance, order, or regulation referred to in sub-clause 5.1(f) and imposed after completion of the Landlord's original construction of the Premises.

(h) Overholding

That if the Tenant shall continue to occupy the Premises and/or License Area after the expiration of this Lease without any further written agreement and without objection by the Landlord, the Tenant shall be a monthly tenant at a monthly base rent equal to 125% of the Annual Base Rent payable by the Tenant as set forth in Article 4 during the last month of the Term. The monthly tenancy shall be (except as to the length of tenancy) subject to the provisions and conditions herein set out.

(i) Signs

Not to display, place, or affix any sign except in accordance with the Bylaws of the City of Kelowna.

(j) Inspection and Access

To permit the Landlord at any time and from time to time, with 24 hours notice, to enter and to have its authorized agents, employees, and contractors enter the Premises and/or License Area for the purpose of inspection or making repairs, alterations, or improvements to the Premises and/or License Area as the Landlord may deem necessary or desirable, or as the Landlord may be required to make by law.

The Landlord shall be allowed to take into the Premises all material which may be required for such purpose and the rent reserved shall in no way abate while such repairs, alterations or improvements are being made by reason of interruption of the business of the Tenant. The Landlord shall exercise reasonable diligence as to minimize the disturbance or interruption of the Tenant's operation, and shall schedule such inspections at a mutually convenient time for both Parties.

(k) Showing Premises

Upon 24 hours advance notice, to permit the Landlord and its authorized agents and employees to show the Premises and/or License Area to prospective tenants during the normal business hours of the last three months of the Term.

# 6. LANDLORD'S COVENANTS

6.1 Landlord's Covenants

The Landlord covenants with the Tenant as follows:

(a) Quiet Enjoyment

Provided the Tenant pays the Rent hereby reserved and performs its other covenants herein contained, the Tenant shall and may peaceably possess and enjoy the Premise and License Area for the Term hereby granted, without any interruption or disturbance from the Landlord or its assigns, or any other person or persons lawfully, claiming by, from, through, or under the Landlord.

# 7. REPAIR, DAMAGE, AND DESTRUCTION

7.1 Landlord's Repairs

The Landlord covenants with the Tenant that the Landlord will maintain the Premises according to the terms set out in the Landlord  $\alpha$  Tenant Responsibility Checklist attached as Schedule C. Unauthorized repairs, except in a bona fide emergency, will not be reimbursed.

7.2 Tenant's Repairs

The Tenant covenants with the Landlord:

- (a) subject to sub-clause 7.1 and 7.3(b) to keep in a good and reasonable state of repair subject to reasonable wear and tear, the Premises and/or License Area including all Leasehold improvements, all trade fixtures therein, all plumbing and electrical fixtures, and all glass including all glass portions of exterior walls;
- (b) that the Landlord may enter and view the state of repair (without having any obligation to do so) at a mutually convenient time for both Parties, and that the Tenant will repair according to notice in writing, and that the Tenant will leave the Premises and/or License Area in a good and reasonable state of repair, allowing for reasonable wear and tear; and
- (c) that the Tenant shall be responsible for all expenses and repairs to all plate glass in the Premises.
- 7.3 Abatement and Termination

It is agreed between the Landlord and the Tenant that in the event of damage to the Premises and/or License Area:

- (a) if the damage is such that the Premises and/or License Area or any substantial part thereof are rendered not reasonably capable of use and occupancy by the Tenant for the purposes of its business for any period of time in excess of 10 days, then:
  - (i) unless the damage was caused by the fault of negligence of the Tenant or its employees, invitees, or others under its control and the damage is not covered by insurance, from and after the date of occurrence of the damage and until the Premises and/or License Area are again reasonably capable of use and occupancy as aforesaid, Rent shall abate from time to time in proportion to the part or parts of the Premises and/or License Area not reasonably capable of use and occupancy; and
  - (ii) unless this Lease is terminated as hereinafter provided, the Landlord or the Tenant, as the case may be (according to the nature of the damage and their respective obligations to repair as provided in clauses 7.1 and 7.2) shall repair such damage with all reasonable diligence, but to the extent that any part of the Premises and/or License Area is not reasonably capable of such use and occupancy by reason of damage which the Tenant is obligated to repair hereunder, any abatement of Rent to which the Tenant is otherwise entitled hereunder shall not extend later than the time by which, in the reasonable opinion of the Landlord, repairs by the Tenant ought to have been completed with reasonable diligence; and
- (b) if the Premises and/or License Area are substantially damaged or destroyed by any cause to the extent such that in the reasonable opinion of the Landlord they cannot be repaired or rebuilt (based on standard hours of construction work) within 180 days after the occurrence of the damage or destruction, then either the Landlord or Tenant may at its option, exercisable by written notice to the Tenant or Landlord, given within 60 days after the occurrence of such damage or destruction, terminate this Lease, in which event neither the Landlord nor the Tenant shall be bound to repair as provided in clauses 7.1 and 7.2, and the Tenant shall instead deliver up possession of the Premises and/or License Area to the Landlord with reasonable expedition but in any event within 60 days after delivery of such notice of termination, and Rent shall be apportioned and paid

to the date upon which possession is so delivered up (but subject to any abatement to which the Tenant may be entitled under sub-clause 7.3(a) by reason of the Premises and/or License Area having been rendered in whole or in part not reasonably capable of use and occupancy), but otherwise the Landlord or the Tenant as the case may be (according to the nature of the damage and their respective obligations to repair as provided in clauses 7.1 and 7.2) shall repair such damage with reasonable diligence.

#### 7.4 Service Interruptions

The Tenant acknowledges to the Landlord that the operation of systems and the availability of facilities for which the Landlord is responsible under clause 7.1 may be interrupted from time to time in cases of accident and emergency, in order to carry out maintenance, repairs, alterations, replacements, and upgrading, or for any other reasonable reason required by the Landlord.

#### 8. TAXES AND OTHER COSTS

# 8.1 Tenant Tax Obligation

The Tenant covenants with the Landlord:

- (a) to pay when due, all Property Taxes, business Taxes, business license fees, and other Taxes, rates, duties or charges levied, imposed, or assessed by lawful authority in respect of the use and occupancy of the Premises by the Tenant, the business or businesses carried on therein, or the equipment, machinery, or fixtures brought therein by or belonging to the Tenant, or to anyone occupying the Premises with the Tenant's consent, or from time to time levied, imposed, or assessed in the future in addition or in lieu thereof, and to pay the Landlord upon demand the portion of any tax, rate, duty, or charge levied or assessed upon the Premises that is attributable to any equipment, machinery, or fixtures on the Premises which are not the property of the Landlord or which may be removed by the Tenant;
- (b) to pay promptly to the Landlord when demanded or otherwise due hereunder all Taxes in respect of all Leasehold Improvements in the Premises; and
- 8.2 Goods and Services Tax

In accordance with the applicable legislation the Goods and Services Tax applies to this Lease as per the terms contained herein.

# 9. UTILITIES AND ADDITIONAL SERVICES

#### 9,1 Utilities

The Tenant shall be responsible for all aspects of, including payment of costs related to, utilities and services of whatever nature or kind required in connection with the Premises and/or License Area and the conduct by the Tenant of the Tenant's business as described herein including without limitation, water, telephone, sewer, hydro, power, heating, air conditioning, garbage disposal, snow clearing, maintenance of the parking lot, grass cutting, fertilizing, irrigation, leaf and litter clean up, tree work, heat, light, ventilating, air conditioning and electricity. The tenant shall be responsible for obtaining and maintaining an electrical operating permit. The tenant is responsible of informing the Property Manager, Real Estate and Property Services of the permits and who the Field Safety Representative is. Snow clearing, maintenance of parking lot, grass cutting, fertilizing, irrigation, leaf and litter clean up, and tree work services shall be provided by the Landlord and the Tenant shall be responsible for the cost, which shall be included in the "Additional Rent" sub-clause 4.1(b) and 4.2(b).

# 10. LICENSES, ASSIGNMENTS, AND SUBLETTING

# 10.1 General

It is understood and agreed that the Tenant may not assign this Lease, or sublease the Premises and/or License Area, to another party without the written consent of the Landlord, such consent not to be unreasonably withheld. Unless the Landlord has consented to such sub-tenancy, assignment or transfer in accordance with this Article 10, the acceptance of any Rent or the performance of any obligation hereunder by any person other than the Tenant shall not be construed as an admission by the Landlord of any right, title, or interest of such person as a subtenant, assignee, transferee or otherwise in the place and stead of the Tenant.

# 10.2 Licenses, Franchises, and Concessions

The Tenant shall not suffer or permit any part of the Premises and/or License Area to be used or occupied by any persons other than the Tenant, any sub-tenants or licensees permitted under this Article, and the employees and invitees of the Tenant, and any such permitted sub-tenant, or suffer or permit any part of the Premises and/or License Area to be used or occupied by any licensee, franchisee, or concessionaire, or suffer or permit any persons to be upon the Premises other than the Tenant, such permitted sub-tenants and licensees, and their respective employees, customers, and others having lawful business with them.

# 10.3 Assignment and Subletting

The Tenant shall not, without first obtaining the written consent of the Landlord, assign this Lease or sublet the whole or any part of the Premises and/or License Area, unless:

- (a) it shall have received or procured a bona fide written offer to take an assignment or sub-lease which is not inconsistent with, and the acceptance of which would not breach any provision of, this Lease if this clause is complied with, and which the Tenant has determined to accept subject to this section being complied with; and
- (b) it shall have first requested and obtained the consent in writing of the Landlord thereto.

# 10.4 Request for Consent

Any request for such consent shall be in writing and accompanied by a true copy of such offer, and the Tenant shall furnish to the Landlord all information available to the Tenant and requested by the Landlord as to the responsibility, reputation, financial standing, and business of the proposed assignee or sub-tenant. Within 30 days after the receipt by the Landlord of such request for consent and of all information which the Landlord shall have requested hereunder (and if no such information has been requested, within 30 days after receipt of such request for consent) the Landlord shall have the right upon written notice to the Tenant to:

(a) in the case of a proposed sub-lease, either sublet from the Tenant any portion of the Premises and/or License Area proposed to be sublet for the Term for which such portion is proposed to be sublet but at the same Annual Base Rent and Additional Rent as the Tenant is required to pay to the Landlord under this Lease for such portion or, if the proposed sub-lease is for all or substantially all of the remainder of the Term, terminate this Lease as it pertains to the portion of the Premises and/or License Area so proposed by the Tenant to be sublet; or

(b) in the case of a proposed assignment, terminate this Lease. The Tenant may withdraw its request within 15 days of the Landlord's notice of termination allowing the Tenant to remain in the Premises.

#### 10.5 If Landlord Terminates

If the Landlord terminates this Lease in accordance with clause 16.4 with respect to all or a portion of the Premises and/or License Area, such termination shall be effective on the date stipulated in the notice of termination which shall not be less than 60 days or more than 90 days following the giving of such notice, and the Tenant shall surrender the whole or part, as the case may be, of the Premises and/or License Area in accordance with such notice, and Rent shall be apportioned and paid to the date of surrender and, if a part only of the Premises is surrendered, Rent payable under clause 4.1 shall thereafter abate proportionately.

# 10.6 If Landlord Consents

If the Landlord consents to any proposed assignment or subletting, the Tenant shall assign or sublet, as the case may be, only upon the terms set out in the offer submitted to the Landlord as aforesaid and not otherwise. As a condition of the Landlord's consent, the assignee or subtenant, as the case may be, shall agree (and will be deemed to have agreed) with the Landlord to observe the obligations of the Tenant under this Lease as the same relates to the space assigned or sublet (except, in the case of a sub-lease, the Tenant's covenant to pay Rent) by entering into an assumption agreement with the Landlord and the Tenant, in the Landlord's thenstandard form, and shall pay the Landlord's then-current processing charge and solicitor's fees and disbursements for preparing such agreement. The Tenant further agrees that if the Landlord consents to any such assignment or subletting, the Tenant shall be responsible for Improvements and all other expenses, costs, and charges with respect to or arising out of any such assignment or subletting. Notwithstanding any such consent being given by the Landlord and such assignment or subletting being effected, the Tenant shall remain bound to the Landlord for the fulfilment of all the terms, covenants, conditions, and agreements herein contained. Any consent by the Landlord to any assignment or subletting shall not constitute a waiver of the requirement for consent by the Landlord to any subsequent assignment or subletting by either the Tenant or any assignee or sub-tenant.

# 10.7 Landlord Not to Unreasonably Withhold Consent

If the Tenant complies with clauses 10.3 and 10.4 and the Landlord does not exercise an option provided to the Landlord under clause 10.4, then the Landlord's consent to a proposed assignment or sublet shall not be unreasonably withheld. The Tenant acknowledges that the Landlord shall not be liable to the Tenant in damages, where, in giving good faith consideration to any request of the Tenant hereunder, it withholds its consent to a proposed assignment or sublease.

# 10.8 Terms of Consent

If the Landlord consents in writing to an assignment or sub-lease as contemplated herein, the Tenant may complete such assignment or sub-lease subject to the following covenants and conditions:

(a) no assignment or sub-lease shall be valid and no assignee or sub-tenant shall take possession of the Premises and/or License Area or any part thereof until an executed duplicate original of such assignment or sub-lease has been delivered to the Landlord; and

(b) all "Excess Rent", as hereinafter defined, derived from such assignment or sublease shall be payable to the Landlord. The Excess Rent shall be deemed to be and shall be paid by the Tenant to the Landlord as Rent. The Tenant shall pay the Excess Rent to the Landlord immediately as and when such Excess Rent is receivable by the Tenant.

As used herein, "Excess Rent" means the amount by which the total money and other economic consideration to be paid by the assignee or sub-tenant as a result of an assignment or sub-lease, whether denominated as Rent or otherwise, exceeds, in the aggregate, the total amount of Annual Base Rent and Additional Rent which the Tenant is obligated to pay to the Landlord under this Lease, pro-rated for the portion of the Premises being assigned or sublet, less the reasonable costs paid by the Tenant for additional improvements installed in the portion of the Premises subject to such assignment or sub-lease by the Tenant at the Tenant's sole cost and expense for the specific assignee or sub-tenant in question, reasonable leasing costs (such as brokers' commissions and the fees payable to the Landlord under clause 10.1) paid by the Tenant in connection with such assignment or sub-lease, and the amount of Annual Base Rent and Additional Rent the Tenant is obligated to pay the Landlord under this Lease, pro-rated for the portion of the Premises being assigned or sublet that is not occupied or used by the Tenant, until the date of such assignment or sub-lease. In determining the amounts to be deducted from Excess Rent in each monthly payment period in respect of the Tenant's costs of assigning or subleasing, such costs shall be amortized without interest over the Term (in the case of an assignment) or Term of the sub-lease (in the case of a sub-lease) on a straight line basis,

# 11. FIXTURES AND IMPROVEMENTS

# 11.1 Installation of Fixtures and Improvements

The Tenant will not make, erect, install, or alter any Leasehold Improvements in the Premises and/or License Area, any safe or special lock in the Premises, or any apparatus for illumination, air conditioning, cooling, heating, refrigerating, or ventilating the Premises, in any case without having requested and obtained the Landlord's prior written approval, which the Landlord shall not unreasonably withhold. In making, erecting, installing, or altering any Leasehold Improvements the Tenant shall comply with the tenant construction guidelines as established by the Landlord from time to time, and shall obtain all required building and occupancy permits and comply with all laws of all authorities having jurisdiction. The Tenant's request for any approval hereunder shall be in writing and be accompanied by a reasonably detailed description of the contemplated work and, where appropriate, plans, working drawings, and specifications. All work to be performed in the Premises and/or License Area shall be performed by competent contractors and subcontractors and shall be performed and completed in a good and workmanlike manner.

# 11.2 Liens and Encumbrances on Fixtures and Improvements

In connection with the making, erection, installation, or alteration of Leasehold Improvements and trade fixtures, and all other work or installations made by or for the Tenant in the Premises and/or License Area, the Tenant shall comply with all of the provisions of the *Builders Lien Act*, S.B.C. 1997, c. 45 and amendments thereto, and other statutes from time to time applicable thereto (including any provision requiring or enabling the retention of portions of any sums payable by way of holdbacks), shall permit the Landlord to take all steps to enable the Landlord to obtain the benefit of the provisions of the *Builders Lien Act*, and, except as to any lawful holdback, shall promptly pay all accounts relating thereto. The Tenant shall not create any mortgage, conditional sale agreement, general security agreement under the *Personal Property*  Security Act, R.S.B.C. 1996, c. 359 and amendments thereto, or other encumbrance in respect of its Leasehold Improvements or trade fixtures, or permit any such mortgage, conditional sale agreement, general security agreement under the *Personal Property Security Act*, or other encumbrance to attach to the Premise.

# 11.3 Discharge of Liens and Encumbrances

If and when any builders' or other lien for work, labour, service, or materials supplied to or for the Tenant or for the cost of which the Tenant may be in any way liable or claims therefore shall arise or be filed or any such mortgage, conditional sale agreement, general security agreement under the *Personal Property Security Act*, or other encumbrance shall attach, the Tenant shall within 20 days after receipt of notice thereof procure the discharge thereof, including any certificate of action registered in respect of any lien, by payment or giving security or in such other manner as may be required or permitted by law, and failing which the Landlord may in addition to all other remedies hereunder avail itself of its remedy under clause 16.1 and may make any payments required to procure the discharge of any such liens or encumbrances, and shall be entitled to be reimbursed by the Tenant as provided in clause 16.1, and its right to reimbursement shall not be affected or impaired if the Tenant shall then or subsequently establish or claim that any lien or encumbrance so discharged was without merit or excessive or subject to any abatement, set-off, or defence.

# 11.4 Removal of Fixtures and Improvements

All Leasehold Improvements in or upon the Premises and/or License Area made by the Tenant during their occupancy shall immediately upon affixation be and become the Landlord's property without compensation therefore to the Tenant. Except to the extent otherwise expressly agreed by the Landlord in writing, no Leasehold Improvements shall be removed by the Tenant from the Premises or License Area either during or at the expiration or sooner termination of the Term, except that:

- (a) the Tenant may at the end of the Term remove its trade fixtures;
- (b) the Tenant shall at the end of the Term remove such of the Leasehold Improvements and trade fixtures owned by the Tenant as the Landlord shall require to be removed; and
- (c) the Tenant shall remove its furniture and equipment at the end of the Term, and also during the Term in the usual and normal course of its business where such furniture or equipment has become excess for the Tenant's purposes or the Tenant is substituting therefore new furniture and equipment.
- (d) all Leasehold Improvements shall be insured by the Tenant as described in Section 12.2 (b) unless otherwise agreed in writing by the Landlord.

The Tenant shall, in the case of every removal either during or at the end of the Term, immediately make good any damage caused to the Premises or License Area by the installation and removal.

# 11.5 Alterations by Landlord

The Landlord reserves the right from time to time to make alterations and additions to the Premises, provided that in exercising any such rights, the Landlord will take reasonable steps to minimize any interference cause to the Tenant's operations in the Premises and/or License Area, but by exercising any such rights, the Landlord shall not be deemed to have constructively evicted

the Tenant or otherwise to be in breach of this Lease, nor shall the Tenant be entitled to any abatement of Rent or other compensation from the Landlord.

# 12. INSURANCE AND LIABILITY

#### 12.1 Landlord's Insurance

The Landlord shall be deemed to have insured (for which purpose it shall be a co-insurer, if and to the extent that it shall not have insured) the Premises and all improvements and installations made by the Landlord in the Premises and/or License Area, except to the extent hereinafter specified, in respect of perils and to amounts which are normally insured by reasonably prudent owners of properties similar to the Premises, as from time to time determined at reasonable intervals (but which need not be determined more often than annually) by insurance advisors selected by the Landlord, and whose written opinion shall be conclusive. Upon the request of the Tenant from time to time the Landlord will furnish a statement as to the perils in respect of which and the amounts to which it has insured the Premises. The Landlord may maintain such other insurance in such amounts and upon such Terms as would normally be carried by a prudent owner.

# 12.2 Tenant's Insurance

As a minimum, the Tenant shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies during the Term of this agreement:

- (a) comprehensive general liability (including bodily injury, death and property damage) insurance on an occurrence basis with respect to the business carried on, in, or from the Premises and/or License Area and the Tenant's use and occupancy thereof, of not less than \$5,000,000 per occurrence, which insurance shall include the Landlord as an Additional Insured and shall protect the Landlord in respect of claims by the Tenant as if the Landlord were separately insured, shall include a cross liability clause; and
- (b) insurance in such amounts as may be reasonably required by the Landlord in respect of fire and other such perils, including sprinkler leakage, as are from time to time defined in the usual extended coverage endorsement covering the Tenant's trade fixtures and the furniture and equipment of the Tenant and (except as to Insured Damage) all Leasehold Improvements in the Premises, and which insurance shall include the Landlord as a Loss Payee as the Landlord's interest may appear with respect to the insured Leasehold Improvements and provided that any proceeds recoverable in the event of loss to Leasehold Improvements;

and if the Landlord shall require the same from time to time, then also:

- (c) tenant's fire legal liability insurance in an amount not less than the actual cash value of the Premises; and
- (d) insurance upon all plate glass in or which forms a boundary of the Premises in an amount sufficient to replace all such glass; and
- (e) motor vehicle insurance for all motor vehicles used by the Tenant in the conduct of its business shall have a minimum public liability and third party property damage insurance coverage of at least \$2,000,000, and where applicable the

Tenant may show evidence of insurance using an ICBC Confirmation of Insurance Coverage (APV-47); and

Notwithstanding Section 12.2 of this agreement, JIBC is a public institution and member of the University, College and Institute Protection Program (UCIPP) and, as such, the insurance requirements of Section 12.2 are considered to be fulfilled.

12.3 Limitation of Landlord's Liability

The Tenant agrees that:

- (a) Except where caused by the negligence of the Landlord or those for whom the Landlord is responsible at law, the Landlord shall not be liable for any bodily injury to or death of, or loss or damage to any property belonging to, the Tenant or its employees, invitees, or licensees or any other person in, on, or about the Premises, or for any interruption of any business carried on in the Premises, and, without limiting the generality of the foregoing, in no event shall the Landlord be liable:
  - (i) for any damage, injury, or death caused by anything done or omitted by the Tenant or any of its servants or agents or by any other person;
  - (ii) for the non-observance or the violation of any provision of any of the rules and regulations of the Landlord in effect from time to time or of any lease by another subtenant of premises in the same building or on the same property or any concessionaire, employee, licensee, agent, customer, officer, contractor, or other invitee of any of them, or by anyone else;
  - (iii) for any act or omission (including theft, malfeasance, or negligence) on the part of any agent, contractor, or person from time to time employed by it to perform janitorial services, security services, supervision, or any other work in or about the Premises or the property;
- (b) The Tenant releases and discharges the Landlord from any and all action, causes of action, claims, damages, demands, expenses, and liabilities which the Tenant now or hereafter may have, suffer, or incur which arise from any matter for which the Landlord is not liable under sub-clause 12.3(a).

#### 12.4 Indemnity of Landlord

The Tenant agrees to indemnify and save harmless the Landlord in respect of all claims for bodily injury or death, property damage, or other loss or damage arising from the conduct of any work by or any act or omission of the Tenant or any assignee, sub-tenant, agent, employee, contractor, invitee, or licensee of the Tenant, and in respect of all costs, expenses, and liabilities incurred by the Landlord in connection with or arising out of all such claims including the expenses of any action or proceeding pertaining thereto, and in respect of any loss, costs, expense, or damage suffered or incurred by the Landlord arising from any breach by the Tenant of any of its covenants and obligations under this Lease, excepting always liability arising from the independent negligence, acts or omissions of the Landlord or those for whom the Landlord is responsible at law. This indemnity shall survive the expiry or termination of this Lease.

# 13. ENVIRONMENTAL MATTERS

# (a) Definitions

For the purposes of this Section and Agreement, the following terms shall have the following meanings:

(i) "Contaminants" means any radioactive materials, asbestos materials, urea formaldehyde, underground or above ground tanks, pollutants, contaminants, deleterious substances, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or Release into the Environment of which is now or hereafter prohibited, controlled or regulated under Environmental Laws;

(ii) "Environment" includes the air (including all layers of the atmosphere), land (including soil, sediment deposited on land, fill and lands submerged under water) and water (including oceans, lakes, rivers, streams, ground water and surface water);

(iii) "Environmental Laws" means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Premises now or hereafter in force with respect in any way to the Environment, health, occupational health and safety, product liability or transportation of dangerous goods, including the principles of common law and equity; and

(iv) "Release" includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, migration, disposal or dumping.

(b) Tenant's Representations and Warranties

The Tenant represents and warrants to the City, and acknowledges that the City is relying on such representations and warranties in entering into this Agreement, that as of the date of this Agreement:

(i) except as disclosed to the City in writing, the Tenant is not, and has never been, subject to any charge, conviction, notice of defect or non-compliance, work order, pollution abatement order, remediation order or any other or proceeding under any Environmental Laws; and

(ii) except as disclosed to and approved in writing by the City, the Tenant's business at the Premises does not involve the sale, storage, manufacture, disposal, handling, treatment, generation, use, transport, refinement, processing, production, remediation, Release into the Environment of, or any other dealing with any Contaminants.

If any of the representations and warranties contained in this section are untrue or incorrect in any material respect, the same shall constitute a breach of this Agreement by the Tenant and shall be subject to the provisions of Section 16 of this Agreement.

(c) Condition of Premises

The Tenant acknowledges and agrees that the City has made no representations or warranties with respect to the environmental condition of the Premises and is leasing the Premises to the Tenant under this Agreement on an "as is, where is" basis with respect to their environmental

condition. Prior to taking possession of the Premises under this Agreement, the Tenant has performed such investigations of the Premises as it considered appropriate and is satisfied as to their environmental condition. The Tenant will not be responsible or liable for any Contaminants that are or were present and existing prior to the Tenant's occupancy. Likewise, the Landlord will not be responsible for the release of pre-existing Contaminants as a result of any negligent act or omission of the Tenant.

# (d) Use of Contaminants

The Tenant shall not use or permit to be used all or any part of the Premises for the sale, storage, manufacture, disposal, handling, treatment, generation, use, transport, refinement, processing, production, remediation, Release into the Environment of, or any other dealing with, any Contaminants, without the prior written consent of the City, which consent may be unreasonably and arbitrarily withheld. Without limiting the generality of the foregoing, the Tenant shall in no event use, and does not plan or intend to use, the Premises to dispose of, handle or treat any Contaminants in a manner that, in whole or in part, would cause the Premises, or any adjacent property to become a contaminated site under Environmental Laws.

# (e) Compliance with Environmental Laws

The Tenant shall promptly and strictly comply, and cause any person for whom it is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Premises under or pursuant to this Agreement, including without limitation obtaining all required permits or other authorizations.

# (f) Evidence of Compliance

The Tenant shall promptly provide to the City a copy of any environmental site investigation, assessment, audit or report relating to the Premises conducted by or for the Tenant at any time before, during or after the Term (or any renewal thereof). The Tenant shall, at its own cost at the City's request from time to time, obtain from an independent environmental consultant approved by the City an environmental site investigation of the Premises or an environmental audit of the operations at the Premises, the scope of which shall be satisfactory to the City and shall include any additional investigations that the environmental consultant may recommend. The Tenant shall, at the City's request from time to time, provide the City with a certificate of a senior officer of the Tenant certifying that the Tenant is in compliance with all Environmental Laws and that no adverse environmental occurrences have taken place at the Premises, other than as disclosed in writing to the City.

#### (g) Confidentiality of Environmental Reports

The Tenant shall maintain all environmental site investigations, assessments, audits and reports relating to the Premises in strict confidence and shall not disclose their terms or existence to any third party (including without limitation, any governmental authority) except as required by law, to the Tenant's professional advisers and lenders on a need to know basis or with the prior written consent of the City, which consent may be unreasonably withheld.

#### (h) Records

The Tenant shall maintain at the Premises all environmental and operating documents and records, including permits, licences, orders, approvals, certificates, authorizations, registrations and other such records, relating to the operations at the Premises, which may be reviewed by the City at any time during the Term on twenty-four (24) hours' prior written notice, except in the case of an emergency, when no prior notice shall be required.

# (i) Access by City

Without relieving the Tenant of any of its obligations under this Agreement, the Tenant shall, at such reasonable times as the City requires and with 24 hours notice, permit the City to enter and inspect the Premises and the operations conducted at the Premises, to conduct tests and environmental investigations, to remove samples from the Premises, to examine and make copies of any documents or records relating to the Premises, to interview the Tenant's employees and to take such steps as the City deems necessary for the safety and preservation of the Premises.

# (j) Authorizations

The Tenant shall promptly provide to the City on request such written authorizations as the City may require from time to time to make inquiries of any governmental authorities regarding the Tenant's compliance with Environmental Laws.

# (k) Notices

The Tenant shall promptly notify the City in writing of:

(i) any Release of a Contaminant or any other occurrence or condition at the Premises, or any adjacent property which could subject the Tenant, the City or the Premises to any fines, penalties, orders or proceedings under Environmental Laws;

(ii) any charge, order, investigation or notice of violation or non-compliance issued against the Tenant or relating to the operations at the Premises under any Environmental Laws; and

(iii) any notice, claim, action or other proceeding by any third party against the Tenant or in respect of the Premises concerning the Release or alleged Release of Contaminants at or from the Premises.

(iv) the Tenant shall notify the appropriate regulatory authorities of any Release of any Contaminants at or from the Premises in accordance with Environmental Laws and failure by the Tenant to do so shall authorize, but not obligate, the City to notify the regulatory authorities.

#### (l) Removal of Contaminants

Prior to the expiry or earlier termination of this Agreement or at any time if requested by the City or required by any governmental authority pursuant to Environmental Laws, the Tenant shall, promptly at its own cost and in accordance with Environmental Laws, remove from the Premises any and all Contaminants, and remediate any contamination of the Premises, or any adjacent property resulting from Contaminants, in either case brought onto, used at or Released from the Premises by the Tenant or any person for whom it is in law responsible. [For greater certainty, the foregoing obligations of the Tenant shall include, without limitation, the treatment of water (including surface and ground water) and the remediation by removal of any soils containing Contaminants at levels exceeding the standards set as acceptable at the time of remediation by the applicable governmental authority, being with respect to soils, the standard applicable to property used for [commercial/industrial] purposes and with respect to water, as determined by the governmental authority given the character and use of water in the area of the Premises. Any soil so removed shall be promptly replaced by soil free of Contaminants at concentrations above the standard described in the preceding sentence.] The Tenant shall provide to the City full information with respect to any remedial work performed pursuant to this section and shall comply with the City's requirements with respect to such work. The Tenant shall use a qualified environmental consultant approved by the City to perform the remediation. The Tenant shall, at its own cost, obtain such approvals and certificates from the B.C. Ministry of Environment, Lands & Parks in respect of the remediation as are required under Environmental Laws or required by the City, including without limitation a certificate of compliance evidencing completion of the remediation satisfactory to the Ministry. The Tenant agrees that if the City reasonably determines that the City, its property, its reputation or the Premises is placed in any jeopardy by the requirement for any such remedial work, the City may, but shall be under no obligation to, undertake itself such work or any part thereof at the cost of the Tenant.

#### (m) Ownership of Contaminants

Notwithstanding any rule of law to the contrary, any Contaminants or leasehold improvements or goods containing Contaminants brought onto, used at, or Released from, the Premises by the Tenant or any person for whom it is in law responsible shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the City, notwithstanding the degree of their affixation to the Premises and notwithstanding the expiry or earlier termination of this Agreement. This section supersedes any other provision of this Agreement to the contrary.

# (n) Indemnity

The Tenant shall indemnify and save harmless the City and its directors, officers, shareholders, employees, agents, successors and assigns, from any and all liabilities, actions, damages, claims, remediation cost recovery claims, losses, costs, orders, fines, penalties and expenses whatsoever (including without limitation, the full amount of all consulting and legal fees and expenses on a solicitor-client basis and the costs of removal, treatment, storage and disposal of Contaminants and remediation of the Premises, and any adjacent property) which may be paid by, incurred by or asserted against the City or its directors, officers, shareholders, employees, agents, successors or assigns, during or after the Term (or any renewal thereof), arising from or in connection with any breach of or non-compliance with the provisions of this Section by the Tenant or arising from or in connection with:

(i) any legal or administrative action, proceeding, investigation, demand, claim or notice of any third party, including without limitation any governmental authority, against any one or more of them pursuant to or under Environmental Laws; or

(ii) any Release or alleged Release of any contaminants at or from the Premises into the Environment,

related to or as a result of the use and occupation of the Premises by the Tenant or those for whom it is in law responsible or any act or omission of the Tenant or any person for whom it is in law responsible.

# (o) Survival of Tenant's Obligations

The obligations of the Tenant under this Section (including, without limitation, the Tenant's indemnity, its obligation to remove and remediate Contaminants and its covenant of confidentiality) shall survive the expiry or earlier termination of this Agreement. The obligations of the Tenant under this Section are in addition to, and shall not limit, the obligations of the Tenant contained in other provisions of this Agreement.

# 14. SUBORDINATION, ATTORNMENT, REGISTRATION, AND CERTIFICATES

# 14.1 Tenant's Covenants

The Tenant agrees with the Landlord that:

(a) Sale or Financing of Building

The rights of the Landlord under this Lease may be mortgaged, charged, transferred, or assigned to a purchaser or purchasers, or to a mortgagee or trustee for bond holders, and in the event of a sale or of default by the Landlord under any mortgage, trust deed, or trust indenture and the purchaser, mortgagee, or trustee, as the case may be, duly entering into possession of the Premises, the Tenant agrees to attorn to and become the tenant of such purchaser or purchasers, mortgagee, or trustee under the terms of this Lease.

(b) Registration

The Tenant agrees that the Landlord shall not be obliged to deliver this Lease in form registrable under the Land Title Act, R.S.B.C. 1996, c. 250 and covenants and agrees with the Landlord not to register this Lease. If the Tenant desires to register under the Land Title Act, then all costs of preparing and registering all documents in connection therewith are to be borne by the Tenant.

(c) Certificates

The Tenant agrees with the Landlord that the Tenant shall promptly whenever requested by the Landlord from time to time execute and deliver to the Landlord and, if required by the Landlord, to any mortgagee (including any trustee under a trust deed or trust indenture) or prospective purchaser (as designated by the Landlord) a certificate in writing as to the status of this Lease at that time, including as to whether it is in full force and effect, is modified or unmodified, confirming the rental payable hereunder and the state of the accounts between the Landlord and Tenant, the existence or non-existence of defaults, and any other matters pertaining to this Lease as to which the Landlord shall request a certificate. If the Tenant fails to do so within seven days after the Tenant receives the form of certificate, the Tenant hereby irrevocably and conclusively authorizes the Landlord to complete, execute, and deliver the certificate for, on behalf of, in the name of, and as agent of, the Tenant.

(d) Assignment by Landlord

In the event of the sale by the Landlord of the Premises or the assignment by the Landlord of this Lease or any interest of the Landlord hereunder, and to the extent that such purchaser or assignee has assumed the covenants and obligations of the Landlord hereunder, the Landlord shall, without further written agreement, be freed and relieved of liability upon such covenants and obligations.

# 15. OCCURRENCE OF DEFAULT

15.1 Unavoidable Delay

Except as herein otherwise expressly provided, if and whenever and to the extent that either the Landlord or the Tenant shall be prevented, delayed, or restricted in the fulfilment of any obligations hereunder in respect of the supply or provision of any service or utility, the making any repair, the doing of any work or any other thing (other than the payment of Rent) by reason of civil commotion, war-like operation, invasion, rebellion, hostilities, sabotage, strike, or work stoppage, or being unable to obtain any material, service, utility, or labour required to fulfill such obligation or by reason of any statute, law, or regulation of or inability to obtain permission

from any governmental authority having lawful jurisdiction preventing, delaying, or restricting such fulfilment, or by reason of other unavoidable occurrence other than lack of funds, the time for fulfilment of such obligation shall be extended during the period in which such circumstance operates to prevent, delay, or restrict the fulfilment thereof, and the other party to this Lease shall not be entitled to compensation for any inconvenience, nuisance, or discomfort thereby occasioned, nor shall Rent abate; but nevertheless the Landlord will use reasonable efforts to maintain services essential to the use and enjoyment of the Premises and/or License Area.

# 15.2 No Admission

The acceptance of any Rent from or the performance of any obligation hereunder by a person other than the Tenant shall not be construed as an admission by the Landlord of any right, title, or interest of such person as a sub-tenant, assignee, transferee, or otherwise in the place and stead of the Tenant.

#### 15.3 Part Payment

The acceptance by the Landlord of a part payment of any sums required to be paid hereunder shall not constitute waiver or release of the right of the Landlord to payment in full of such sums.

# 16. TENANT'S DEFAULT, REMEDIES OF LANDLORD, AND SURRENDER

16.1 Remedying by Landlord, Non-payment, and Interest

In addition to all the rights and remedies of the Landlord available to it in the event of any default hereunder by the Tenant, either by any other provision of this Lease or by statute or the general law, and the event of default is not remedied within the respective time period for doing so, the Landlord:

- (a) shall have the right at all times to remedy or attempt to remedy any default of the Tenant, and in so doing may make any payments due or alleged to be due by the Tenant to third parties and may enter upon the Premises and/or License Area to do any work or other things therein, and in such event all expenses of the Landlord in remedying or attempting to remedy such default together with an administrative charge equal to 15% of the total of such expenses shall be payable by the Tenant to the Landlord forthwith upon demand;
- (b) shall have the same rights and remedies in the event of any non-payment by the Tenant of any amounts payable by the Tenant under any provision of this Lease as in the case of non-payment of Rent; and
- (c) shall be entitled to be reimbursed by the Tenant, and the Tenant shall forthwith pay the Landlord, the amount of all costs and expenses (including, without limitation, legal costs on a solicitor and own-client basis) incurred by the Landlord in connection with the default or in efforts to enforce any of the rights, or to seek any of the remedies, to which the Landlord is or may be entitled hereunder.

# 16.2 Remedies Cumulative

The Landlord and the Tenant may from time to time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant or the Landlord, as the case may be, either by any provision of this Lease of by statute or the general law, all of which rights and remedies are intended to be cumulative and not alternative, as the express provisions hereunder as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord or the Tenant, as the case may be, by statute or the general law.

# 16.3 Right of Re-entry on Default

Provided and it is expressly agreed that:

- (a) if and whenever the Rent hereby reserved or other moneys payable by the Tenant or any part thereof, whether lawfully demanded or not, are unpaid and the Tenant shall have failed to pay such Rent or other moneys within five days after the Landlord has given to the Tenant notice requiring such payment; or
- (b) if the Tenant shall breach or fail to observe and perform any of the covenants, agreements, provisos, conditions, rules, regulations or other obligations on the part of the Tenant to be kept, observed, or performed hereunder and such breach or failure continues for 10 days after the Landlord has given the Tenant notice thereof; or
- (c) if without the written consent of the Landlord the Premises and/or License Area shall be used by any other persons than the Tenant or its permitted assigns or permitted sub-tenants or for any purpose other than that for which the Premises were leased, or occupied by any persons whose occupancy is prohibited by this Lease; or
- (d) if the Premises shall be vacated or abandoned or remain unoccupied for 15 days or more while capable of being occupied; or
- (e) if any of the goods and chattels of the Tenant shall at any time be seized in execution or attachment; or
- (f) if a receiver or receiver-manager is appointed of the business or property of the Tenant, or if the Tenant shall make any assignment for the benefit of creditors or any bulk sale, become bankrupt or insolvent or take the benefit of any statute now or hereafter in force for bankrupt or insolvent debtors or (if a corporation) shall take any steps or suffer any order to be made for its winding-up or other termination of its corporate existence; or
- (g) if any policy of insurance upon the Premises from time to time effected by the Landlord shall be cancelled or about to be cancelled by the insurer by reason of the use or occupation of the Premises and/or License Area by the Tenant or any assignee, sub-tenant, or licensee of the Tenant or anyone permitted by the Tenant to be upon the Premises and/or License Area and the Tenant after receipt of notice in writing from the Landlord shall have failed to take such immediate steps in respect of such use or occupation as shall enable the Landlord to reinstate or avoid cancellation of (as the case may be) such policy of insurance; or
- (h) if the Landlord shall have become entitled to Terminate this Lease or to re-enter the Premises and/or License Area under any provision hereof;

then and in every such case it shall be lawful for the Landlord thereafter to enter into and upon the Premises and/or License Area or any part thereof in the name of the whole and the same to have again, repossess, and enjoy as of its former estate, anything in this Lease to the contrary notwithstanding. Should the Tenant be unable to sure the default within 10 days due to the nature of the default, the Tenant will be permitted as much time as is reasonably required provided that it diligently commences and continues to cure the default upon notice from the Landlord. The Landlord may use such force as it may deem necessary for the purpose of gaining admittance to and re-taking possession of the Premises and/or License Area, and the Tenant hereby releases the Landlord from all actions, proceedings, claims, and demands whatsoever for and in respect of any such forcible entry or any loss or damage in connection therewith.

#### 16.4 Termination and Re-entry

If and whenever the Landlord becomes entitled to re-enter upon the Premises and/or License Area under any provision of this Lease, the Landlord, in addition to all other rights and remedies, shall have the right to terminate this Lease by giving to the Tenant or by leaving upon the Premises notice in writing of such termination. Thereupon, this Lease and the term shall terminate, and the Tenant shall immediately deliver up possession of the Premises and/or License Area to the Landlord in accordance with clause 16.9.

- 16.5 Right of Termination No Default
  - (a) In the event that the Landlord requires the use of the Premises for whatever reason, the Landlord shall have the right to terminate this Lease after giving the Tenant One (1) Year notice of the Landlord's intention to terminate, the effective date being 365 days from the date of the notice.
  - (c) In the event that the Tenant no longer requires the use of the Premises for whatever reason, the Tenant shall have the right to terminate this Lease after giving the Landlord One (1) Year notice of the Tenant's intention to terminate, the effective date being 365 days from the date of the notice.
- 16.6 Certain Consequences of Termination and Re-entry

If the Landlord re-enters the Premises and/or License Area or if this Lease is terminated by reason of any event set out in clause 16.3 or 16.5, then without prejudice to the Landlord's other rights and remedies:

- (a) the provisions of this Lease which relate to the consequences of termination, and the provisions of this Lease as they apply with respect to acts, events, and omissions which occurred prior to the termination, shall all survive such termination;
- (b) in addition to the payment by the Tenant of Rent and other payments for which the Tenant is liable under this Lease, Rent for the current month and the next ensuing three months shall immediately become due and be paid by the Tenant or the person then controlling the Tenant's affairs; and
- (c) the Tenant or person then controlling the affairs of the Tenant shall pay to the Landlord on demand such reasonable expenses as the Landlord has incurred, and a reasonable estimate of the Landlord of expenses the Landlord expects to incur, in connection with the re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, and storing and realizing upon assets seized, including without limitation brokerage fees, legal fees, and disbursements, the expenses of cleaning and making and keeping the Premises and/or License Area in good order, and the expenses of repairing the Premises and preparing them for reletting.

# 16.7 Waiver of Distress and Bankruptcy

The Tenant waives the benefit of any present or future statute taking away or limiting the Landlord's right of distress and covenants and agrees that notwithstanding any such statute none of the goods and chattels of the Tenant on the Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears. The Tenant will not sell, dispose of, or remove any other fixtures, goods, or chattels of the Tenant from or out of the Premises during the Term without the consent of the Landlord, unless the Tenant is substituting new fixtures, goods, or chattels of equal value or is bona fide disposing of individual items which have become excess for the Tenant's purposes; and the Tenant will be the owner or lessee of its fixtures, goods, and chattels and will not permit them to become subject to any lien, mortgage, charge, or encumbrance. The Tenant agrees that it will not, without the Landlords' consent, repudiate or disclaim this Lease in any bankruptcy, insolvency, re-organization, or other proceeding or court application, and if required by the Landlord, waives in favour of the Landlord the benefit of s. 65.2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended, and any provision of similar import.

# 16.8 Re-letting and Sale of Personalty

Whenever the Landlord becomes entitled to re-enter upon the Premises under any provision of this Lease, the Landlord, in addition to its other rights, shall have the right as agent of the Tenant to enter the Premises and/or License Area and re-let them (for a term or terms shorter or longer than the balance of the Term, granting reasonable concessions in connection therewith), and to receive the Rent therefore, and as the agent of the Tenant to take possession of any furniture or other property thereon, and to sell the same at public or private sale without notice, and to apply the proceeds thereof and any rent derived from re-letting the Premises and/or License Area upon account of the Rent due and to become due under this Lease, and the Tenant shall be liable to the Landlord for the deficiency, if any.

# 16.9 Surrender on Termination

Forthwith upon the termination of this Lease, whether by effluxion of time or otherwise, the Tenant shall vacate and deliver up possession of the Premises and/or License Area in a neat and tidy state and in good and substantial repair in accordance with the Tenant's obligation under this Lease to repair the Premises and/or License Area, but subject to the Tenant's rights and obligations in respect of removal in accordance with clause 11.4, and subject to reasonable wear and tear. At the same time the Tenant shall surrender to the Landlord at the place then fixed for the payment of Rent all keys and other devices which provide access to the Premises and/or License Area, or any part thereof and shall inform the Landlord of all combinations to locks, safes, and vaults, if any, in the Premises.

# 17. MISCELLANEOUS

# 17.1 Notices

Any notice required or contemplated by any provision of this Lease shall be given in writing, and if to the Landlord, either delivered to an executive officer of the Landlord or delivered or mailed (by prepaid registered mail) to the Landlord at the address set out in sub-clause 1.1(a), or if the Landlord has given the Tenant notice of another address in Canada to which notices to the Landlord under this Lease are to be given, then to the last such address of which the Tenant has been given notice; and if to the Tenant, either delivered to the Tenant personally (or to a partner or officer of the Tenant if the Tenant is a firm or corporation) or delivered or mailed (by prepaid registered mail) to the Tenant at the Premises. Every such notice shall be deemed to have been given when delivered or, if mailed as aforesaid, upon the third business day after the day of

mailing thereof in Canada provided that if mailed, should there be a mail strike, slowdown, or other labour dispute which might affect delivery of such notice between the time of mailing and the actual receipt of notice, then such notice shall only be effective if actually delivered.

# 17.2 Extraneous Agreements

The Tenant acknowledges that there are no covenants, representations, warranties, agreements, or conditions expressed or implied relating to this Lease, the Premises and/or License Area save as expressly set out in this Lease and in any agreement to lease in writing between the Landlord and the Tenant pursuant to which this Lease has been executed. In the event of any conflict between the terms of this Lease and such agreement to lease, the terms of this Lease shall prevail. This Lease may not be modified except by an agreement in writing executed by the Landlord and the Tenant, and no verbal agreements or conversations with any officer, agent, or employee of the City, either before or after the execution of this agreement, shall affect or modify any of the terms or obligations herein contained.

# 17.3 Time of Essence

Time shall be of the essence in this Lease.

# 17.4 Enurement

This Lease and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the Landlord and its heirs, executors, and administrators and the permitted successors and permitted assigns of the Tenant.

# 17.5 References to Tenant

References to the Tenant shall be read with such changes in gender as may be appropriate, depending upon whether the Tenant is a male or female person or a firm or corporation. If the Tenant is comprised of more than one person or entity, then each such person and entity is jointly and severally bound by the representations, warranties, agreements, and covenants of the Tenant herein and any notice given or deemed to have been given at any time to any such person or entity, shall be deemed to have been given at the same time to each other such person and entity.

# 17.6 Frustration

Notwithstanding the occurrence or existence of any event or circumstance or the non-occurrence of any event or circumstance, and so often and for so long as the same may occur or continue which, but for this clause, would frustrate or void this Lease, and notwithstanding any statutory provision to the contrary, the obligations and liability of the Tenant hereunder shall continue in full force and effect as if such event or circumstance had not occurred or existed.

#### 17.7 Waiver

No condoning, excusing, or overlooking by the Landlord or Tenant of any default, breach, or nonobservance by the Tenant or the Landlord at any time or times in respect of any covenant, proviso, or condition herein contained shall operate as a waiver of the Landlord's or the Tenant's rights hereunder in respect of any continuing or subsequent default, breach, or non-observance or so as to defeat or affect in any way the rights of the Landlord or the Tenant herein in respect of any such continuing or subsequent default or breach, and no acceptance of Rent by the Landlord subsequent to a default by the Tenant (whether or not the Landlord knows of the default) shall operate as a waiver by the Landlord, and no waiver shall be inferred from or implied by anything done or omitted by the Landlord or the Tenant save only express waiver in writing.

# 17.8 Governing Law and Severability

This Lease shall be governed by and construed in accordance with the laws in force in the province of British Columbia. The venue of any proceedings taken in respect of or under this Lease shall be Kelowna, British Columbia as long as such venue is permitted by law, and the Tenant shall consent to any application by the Landlord to change the venue to Kelowna, British Columbia of any proceedings taken elsewhere. The Landlord and the Tenant agree that all the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate section hereof. Should any provision or provisions of this Lease be illegal or not enforceable, it or they shall be considered separate and severable from the Lease and its remaining provisions shall remain in force and be binding upon the parties as though the said provision or provisions had never been included.

# 17.9 Captions

The captions appearing in this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit, or enlarge the scope or meaning of this Lease or of any provision thereof.

# 17.10 Acceptance

The Tenant accepts this Lease, to be held by it as tenant, and subject to the conditions, restrictions, and covenants above set forth. The acceptance of possession of the Premises and/or License Area shall be conclusive evidence as against the Tenant that at the Commencement Date of the Term the Landlord had duly completed all work required to be completed by the Landlord prior to the Commencement Date of the Term and the Premises and/or License Area were in good order and satisfactory condition for the commencement of the work and business of the Tenant.

# 17.11 Deposit

If the Landlord is holding any deposit in connection with this Lease, then unless the Landlord agreed in writing to different arrangements at the time the Landlord received the deposit, the deposit shall be held by the Landlord on a non-interest bearing basis to be applied to the Annual Base Rent for that month of the Term during which Annual Base Rent is first payable hereunder.

#### 17.12 Expropriation

If at any time during the Term the interest of the Tenant under this Lease or the whole or any part of the Premises shall be taken by any lawful power or authority by the right of expropriation, the Landlord may at its option give notice to the Tenant terminating this Lease on the date when the Tenant or Landlord is required to yield up possession thereof to the expropriating authority. Upon such termination, or upon termination by operation of law, as the case may be, the Tenant shall immediately surrender the Premises and/or License Area and all its interest therein, Rent shall abate and be apportioned to the date of termination, the Tenant shall forthwith pay to the Landlord the apportioned Rent and all other amounts which may be due to the Landlord up to the date of termination, and clause 16.9 shall apply. The Tenant shall have no claim upon the Landlord for the value of its property or the unexpired Term of this Lease, but the parties shall each be entitled to separately advance their claims for compensation for the loss of their respective interests in the Premises, and the parties shall each be entitled to receive and retain such compensation as may be awarded to each respectively. If an award of compensation made to the Landlord specifically includes an award to the Tenant, the Landlord shall account therefore to the Tenant. In this clause the word "expropriation" shall include a sale by the Landlord to an authority with powers of expropriation, in lieu of or under threat of expropriation.

17.13 Statutory Functions

Nothing contained herein shall impair or affect in any way the exercise by the Landlord of its functions and authority under any enactment, constating document, law, bylaw, resolution or other source of authority.

IN WITNESS WHEREOF the parties have executed this Lease. SIGNED, SEALED AND DELIVERED by the Landlord in the presence of:

)

)

The City of Kelowna, by its Authorized ) Signatories: )

Mayor

Witness

Address

Occupation

**City Clerk** 

Justice Institute of British Columbia by its Authorized Signatories:

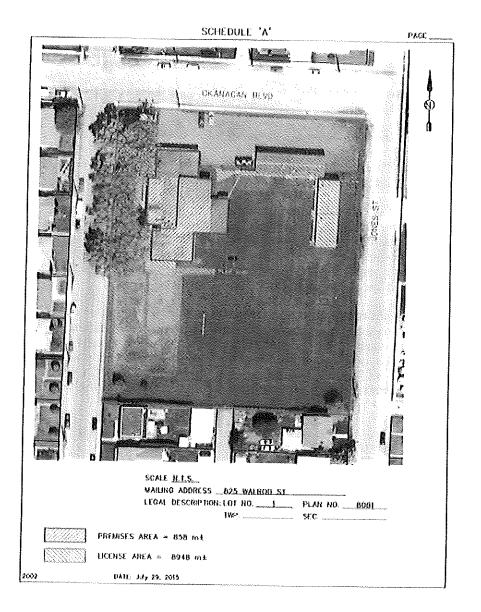
Dires P

New Westminster, BC Address Annistant to UP Inance

Occupation

### PLAN OF THE LEASED PREMISE AND LICENSE AREA

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#### SCHEDULE B

#### DEFINITIONS

In this Lease the following expressions shall have the following meanings:

"Additional Rent" means all sums of money to be paid by the Tenant, whether to the Landlord or otherwise under this Lease, except for Annual Base Rent and Goods and Services Tax payable by the Tenant.

nual Base Rent" means the annual Rent set out in sub-clause 1.1(g) and payable by the Tenant as set forth in clause 4.2.

"Basic Terms" means those terms set out in clause 1.1.

"Commencement Date" means the date the term commences as set forth in or determined under sub-clause 1.1(e) and subject to clause 3.2.

"Goods and Services Tax" or "GST" means and includes any and all sales Taxes, value added Taxes, business transfer Taxes, or any other Taxes imposed on the Landlord or the Tenant from time to time in respect of the Rent payable by the Tenant to the Landlord under this Lease or the Rental of the Premises or the provision of any goods, services, or utilities whatsoever by the Landlord to the Tenant under this Lease, whether characterized as a Goods and Services Tax, sales Tax, value added Tax, business transfer Tax, or otherwise.

"Insured Damage" means that part of any damage occurring to any portion of the Premises for which the Landlord is responsible, of which the entire cost of repair is actually recoverable by the Landlord under a policy of insurance in respect of fire and other perils from time to time effected by the Landlord, or, if and to the extent that the Landlord has not insured and is deemed to be a co-insurer or self-insurer under clause 12.1, would have been recoverable had the Landlord effected insurance in respect of perils, to amounts and on terms for which it is deemed to be insured.

"Land" means that parcel of land on Walrod Street in the City of Kelowna, British Columbia, more particularly described as Lot 1, KAP8081, ODYD.

"Lease Year" means, in the case of the first Lease Year, the period beginning on the Commencement Date and terminating 12 months from the last day of the calendar month in which the Commencement Date occurs (except that if the Commencement Date occurs on the first day of a calendar month, the first Lease Year shall terminate on the day prior to the first anniversary of the Commencement Date) and, in the case of each subsequent Lease Year, means each 12-month period after the first Lease Year.

"Leasehold Improvements" means all fixtures, improvements, installations, alterations, and additions now and from time to time hereafter made, erected or installed, whether by the Tenant, and the Landlord or anyone else, in the Premises, including all partitions however fixed (including movable partitions) and all wall-to-wall carpeting with the exception of such carpeting where laid over vinyl tile or other finished floor and affixed so as to be readily removable without damage, but excluding trade fixtures and unattached free-standing furniture and equipment.

"License Area" means the parking lot and landscaped area adjacent to the Premises, as set out in sub-clause 1.1(c) and shown on Schedule A.

"Premises" means the Walrod School at 825 Walrod Street as set out in sub-clause 1.1(c) and shown on Schedule A.

"Prime Rate" means the rate of interest declared from time to time by the main branch, Bank of Montreal, Kelowna, British Columbia, to the Landlord as the annual rate of interest.

"Rent" means and includes the Annual Base Rent, Additional Rent, and all other sums payable by the Tenant to the Landlord under this Lease except for Harmonized Sales Tax payable by the Tenant.

"Taxes" means all Taxes, rates, duties, levies, and assessments whatsoever, whether municipal, parliamentary, or otherwise, which are levied, imposed, or assessed against or in respect of the Premises, the Land, which are from time to time levied, imposed or assessed in the future in addition or in lieu thereof, including, without limitation, those levied, imposed, or assessed for education, schools and local improvements.

"Tax Cost" for any calendar year means an amount equal to the aggregate, without duplication, of all Taxes in respect of such calendar year.

Tenant's Share" means the proportion of Taxes attributed to the Premises.

"Term" means the Term of this Lease set forth in sub-clause 1.1(e) and any renewal or extension thereof and any period of permitted overholding.

### SCHEDULE C

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Tenant Responsibility Checklist					
Walrod School - JIBC	Provided by the City, Cost borne by the City	Provided by the City, Cost borne by the Tenant	Provided by the Tenant, Cost borne by the City	Provided by the Tenant, cost borne by the tenant	Does not apply
Boiler operating permits					x
Electrical field safety representative				X	l
Electrical operating permit				X	
Electrical system preventative maintenance				Х	
Electrical system repairs	x				<u> </u>
Electrical/lights - lamp & tube replacement				Х	
Elevator equipment repairs					x
Elevator maintenance contract					X
Elevator operating permits					x
Emergency lighting testing & repairs				x	
Exterior doors, windows, facades, etc.				x	
Fire alarm system repairs	x				
Fire alarm system testing & inspection contracts				x	
Fire extinguisher monthly & annual inspections				x	
Fire safety plan and fire drills				x	
Fire sprinkler system repairs					x
Fire sprinkler system testing and inspection contracts					x
Furnishings (maintain & replace)				x	1
Garbage removal				X	
HVAC preventative maintenance				×	
HVAC repairs	x				
Insurance - automotive				X	
Insurance - liability				X	1
Insurance - property, building				X	
Insurance - tenant owned furnishings & fixtures				x	
Insurance - tenant owned operation equipment, computers, & furnishings				X	
Interior walls, flooring, doors, ceilings, etc.				×	
Internet				x	<u> </u>
Janitorial services & supplies				X	<u> </u>
Kitchen Exhaust Hood preventative maintenance					Х

Kitchen Exhaust Hood repairs		1		ł
Kitchen Hood Fire suppression system preventative				×
maintenance				x
Kitchen Hood Fire suppression repairs				x
Kitchen Hood Fire suppression testing				x
Landscape maintenance		x		<u>                                      </u>
Licences & permits			x	
Parking lots - lighting, parking lines, sweeping, asphalt, signage, drainage etc.		x		
Pest control				
Plumbing system preventative maintenance			X	
Plumbing system repairs	x	{}	^	
Recycling program		<u>├</u>		
Roof inspection & maintenance	×		X	-
Roof repairs	x	├─── <b>├</b>		
Security system				<u> </u>
Signage			X	
Snow removal		x	X	
Taxes				
Telephone			X	
Tenant improvements			X	<b> </b>
Tenant improvements - Maintenance			X	<u> </u>
Tree removal		x	X	
Utilities - electricity				<u> </u>
Utilities - natural gas			X	——————————————————————————————————————
Utilities - propane			X	
Utilities - water, sewer				x
Vandalism (exterior)	×		X	
Vandalism (interior)				
Window Cleaning (exterior)			X	
Window Cleaning (interior)			X	
			X	

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Document Revi:	sion History:		
Revision			
1	Description	Revised by	Date

#### SCHEDULE D

## CERTIFICATE OF INSURANCE



<u>City staff to</u>	o considere orior to circulation
City Dept.:	
Dept. Contact:	
Project/Contract/Event	

Insured	Name:
Inversa	
	Address:
Broker	Name:
	Address:
	Address

Location and nature of operation and/or contract reference to which this Certificate applies:

T		Poti	cy Dates	
Type of Insurance	Company & Policy Number	Effective	Explry	Limits of Liability/Amounts Bodily injury and Property Damage
Section 1 Comprehensive General Liability including: • Products/Completed Operations; • Blanket Contractual; • Contractor's Protective; • Personal Injury; • Contingent Employer's Liability; • Broad Form Property Damage; • Non-Owned Automobile; • Cross Liability Clause. Section 2 Automobile Liability				Bodily Injury and Property Damage         \$ 2,000,000       Inclusive         \$

it is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

 Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
 The City of Kelowna is named as an Additional Insured.
 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

Print Name

Title

Company (Insurer or Broker)

Signature of Authorized Signatory

Date



# LEASE AGREEMENT

825 Walrod Street





# LOCATION



333



# SITE PLAN





# LEASE DETAILS

- Total annual lease revenue: \$60,000
- Term of Lease: 3 years
- Renewals: one 2-year renewal
- Operating Costs: N/A (Tenant to complete R&M)

## **CITY OF KELOWNA**

## BYLAW NO. 11250

## Delegation of Authority to Enter into Leases and Licences of Occupation Bylaw

WHEREAS under 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 is relates to lease and licence of occupation 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 Leases and Licences of Occupation Bylaw No. 11550."

### 1.2 Definitions

1.2.1 In this Bylaw:

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

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

"Lease" means all forms of leases including farm leases, residential property leases, commercial leases, bare land leases, facility leases, concession leases and patio agreements;

"Manager, Property Management" means the person hired in this position by the Real Estate Director; and

### SECTION 2 - Authorized Signatories for Specified Real Property Transactions

- 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 Manager, Property Management is assigned the authority within the parameters established by Section 2 to approve transactions for leases and licences of occupation over lands and buildings owned or vested by the City in addition to buildings and land to be leased by the City as required for municipal undertakings.
- 2.2 The Manager, Property Management is authorized to negotiate and execute on behalf of the City, transactions of up to a maximum fair market value of \$45,000 per year of a lease or licence of occupation.
- 2.3 The Manager, Property Management is assigned the authority to negotiate, approve and execute on behalf of the City all contracts and other documents necessary or desirable to complete lease or licence of occupation transactions as approved pursuant to this Bylaw.
- 2.4 The value of a transaction is to be determined by the basic rent or fee payable under the lease or licence for the term of the lease or licence including any rights of renewal.
- 2.5 The maximum term of a lease or licence of occupations shall be fifteen (15) years inclusive of any rights of renewal, or as established in section 2.2, whichever is shorter in duration.
- 2.6 The Manager, Property Management 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 July, 2016.

Adopted by the Municipal Council this

Mayor

City Clerk