

# CITY OF KELOWNA

## BYLAW NO. 12046

### **Housing Agreement Authorization Bylaw - PC Urban Clement Holdings Ltd., Inc. No. BC109980 740 Clement Avenue and 1195 Richter Street**

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

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

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with PC Urban Clement Holdings Ltd., Inc. No. BC109980 for the lands known as Lot A Section 30 Township 26 ODYD Plan EPP83554 located on Clement Avenue and Richter Street, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Schedule "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

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

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

## Schedule A

FORM C\_V25 (Charge)

**LAND TITLE ACT**  
**FORM C (Section 233) CHARGE**  
**GENERAL INSTRUMENT - PART 1 Province of British Columbia**

PAGE 1 OF 13 PAGES

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

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

Kathleen Higgins, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 122-459

Purpose-Built Rental Housing Agreement and Section 219  
Covenant

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

030-571-219

LOT A SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN  
EPP83554

STC? YES ☐

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

SEE SCHEDULE

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

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

(b) ☒ Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

SEE SCHEDULE

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

CITY OF KELOWNA

1435 WATER STREET

KELOWNA

V1Y 1J4

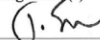
BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

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

Officer Signature(s)



**J. SCOTT MYERS**

*Solicitor*

619, 610 GRANVILLE STREET  
VANCOUVER, B.C. V6C 3T3  
(604) 682-8670

Execution Date

Y	M	D
20	06	11

Transferor(s) Signature(s)

PC URBAN CLEMENT HOLDINGS  
LTD. by its authorized signatory  
(ies):

Name: J. Brent Sawchyn

Name:

**OFFICER CERTIFICATION:**

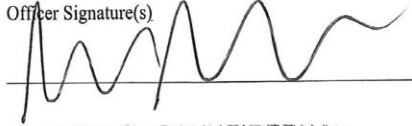
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution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

**LAND TITLE ACT  
FORM D**

**EXECUTIONS CONTINUED**

PAGE 2 of 13 PAGES

Officer Signature(s)



**STEPHEN SCHNEIDERMAN**  
BARRISTER, SOLICITOR, NOTARY PUBLIC  
309-850 WEST HASTINGS STREET  
VANCOUVER, B.C. V6C 1E1

Execution Date

Y	M	D
2020	6	9

Transferor / Borrower / Party Signature(s)

SHELMARJAY HOLDINGS LTD. by its  
authorized signatory(ies):

Name:

Mark Spawakow

Name:

(as to all signatures)

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BRITISH COLUMBIA HOUSING  
MANAGEMENT COMMISSION by its  
authorized signatory(ies):

Name:

Name:

(as to all signatures)

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CITY OF KELOWNA by its authorized  
signatory(ies):

Name:

Name:

(as to all signatures)

**OFFICER CERTIFICATION:**

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

LAND TITLE ACT  
FORM D

## EXECUTIONS CONTINUED

PAGE 2 of 13 PAGES

Officer Signature(s)

(as to all signatures)



CHARLOTTE K. WONG  
Barrister & Solicitor  
2110 Burquitlam Drive  
Vancouver, BC V5P 2P1

(as to all signatures)

(as to all signatures)

Execution Date

Y	M	D
20	06	11

Transferor / Borrower / Party Signature(s)

SHELMARJAY HOLDINGS LTD. by its  
authorized signatory(ies):

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

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

BRITISH COLUMBIA HOUSING  
MANAGEMENT COMMISSION by its  
authorized signatory(ies):Name:  \_\_\_\_\_

Stacey Lee

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

Abbas Barodawalla

CITY OF KELOWNA by its authorized  
signatory(ies):

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

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

## OFFICER CERTIFICATION:

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

**LAND TITLE ACT  
FORM E****SCHEDULE**

PAGE 3 OF 13 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Covenant****Section 219**

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Priority Agreement****Granting the Covenant herein priority over  
Mortgage CA7566393**

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Priority Agreement****Granting the Covenant herein priority over  
Mortgage CA7678849 and Assignment of Rents  
CA7678850**

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**LAND TITLE ACT  
FORM E**

**SCHEDULE**

PAGE 4 OF 13 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

**5. TRANSFEROR(S):**

PC URBAN CLEMENT HOLDINGS LTD. (Inc. No. BC10999800)

SHELMARJAY HOLDINGS LTD. (Inc. No. BC0855415) [as to priority]

BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION [as to priority]

**PURPOSE-BUILT RENTAL HOUSING AGREEMENT AND 219 COVENANT**

THIS AGREEMENT, dated for reference June 1, 2020, which affects:

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

PID: 030-571-219  
LOT A SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN EPP83554  
(the "Land")

**IS BETWEEN:**

**PC URBAN CLEMENT HOLDINGS LTD. INC.NO. BC1099980**  
880 - 1090 West Georgia Street  
Vancouver, BC  
V6E 3V7  
(the "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  
(the "City")

**GIVEN THAT:**

- A. The Owner intends to construct on the Land a commercial and residential development consisting of two mixed-use buildings that will include Purpose-Built Rental Housing (hereinafter defined);
- 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. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the City in respect of the use of land and buildings on land, construction on land, or the subdivision of land;
- D. As a condition of rezoning the Land, 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 to restrict the use of, and construction on, the Land and the use of the Purpose-Built Rental Housing constructed on the Land, on the terms and conditions of this Agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*; and
- E. 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, pursuant to s. 483 of the *Local Government Act* and s. 219 of the *Land Title 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;

"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;

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

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

"Purpose-Built Rental Housing Dwelling Units" means the 158 Dwelling Units on the Land designated as Purpose-Built Rental Housing Dwelling Units under section 2.2 of this Agreement.

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

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

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor in function, apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

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

- (a) this Agreement is intended to serve the public interest by providing for occupancy Purpose-Built Rental Housing that is in demand in the City of Kelowna but that is 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**

**2.1 Land Use Restrictions** – Pursuant to section 219 of the *Land Title Act*, the Owner and the City hereby covenant and agree as follows:

- (a) the Land will be used only in accordance with this Agreement;
- (b) the Owner will design, construct and maintain one or more buildings on the Land and such buildings will include not less than 158 Dwelling Units which will be designated, used and occupied as a Purpose-Built Rental Housing Dwelling Unit in accordance with this Agreement; and
- (c) the Owner may only subdivide the Land via deposit of a strata plan pursuant to the *Strata Property Act*.

**2.2 Designation** – The Owner will, prior to applying for an occupancy permit for any Dwelling Unit located on the Land, notify the City in writing which Dwelling Units located on the Land it has designated as Purpose-Built Rental Housing Dwelling Units. Such written designation is irrevocable by the Owner upon receipt by the City of the same, but the designation is not effective unless and until the City confirms its approval of such designation in writing.

**2.3 Partial Release** – If the Owner subdivides the Land and not all strata lots created as a result thereof contain Purpose-Built Rental Housing Dwelling Units, the Owner is entitled to apply for a release of this Agreement (including registered notice of the housing agreement herein) from such non-Purpose-Built Rental Housing Dwelling Unit strata lots pursuant to section 2.4. Notwithstanding the foregoing, the Owner will not apply for a release of this Agreement pursuant to section 2.4 below in respect of such non- Purpose-Built Rental Housing Dwelling Unit strata lots, and the Municipality will be under no obligation to provide such release, unless, at the time that the Owner applies for such release:

- (a) the Owner is not in breach of any of its obligations under this Agreement;
- (b) the Owner has notified the City in writing which of the strata lots located on the Land contain Purpose-Built Rental Housing Dwelling Units. Such written designation is irrevocable by the Owner upon receipt by the City of the same, but the designation is not effective unless and until the City confirms its approval of such designation in writing;
- (c) occupancy permits for all Purpose-Built Rental Housing Dwelling Units have been issued by the City; and
- (d) the Purpose-Built Rental Housing Dwelling Units are used and always have been used, occupied and transferred in compliance with this Agreement.

**2.4 Process for Partial Release** – Subject to section 2.3, at the request of the Owner and at the Owner's sole expense, the City will deliver to the Owner releases of this Agreement (including registered notice of the housing agreement herein) in registrable form for each strata lot on the Land that does not contain a Purpose-Built Rental Housing Dwelling Unit, provided that the City may withhold delivery of any release against any such non- Purpose-Built Rental Housing Dwelling Unit strata lot unless:

- (a) the Owner has filed a Rental Disclosure Statement pursuant to section 139 of the *Strata Property Act* designating each Purpose-Built Rental Housing Dwelling Unit located on the Land as a rental strata lot with a rental period expiry date no earlier than 10 years from the date of stratification; and
- (b) the strata corporation created by the filing of the strata plan over the Land has the following contained within its bylaws:

"Residential Strata Lots within the Strata Corporation are subject to a Housing Agreement with the City of Kelowna. No action will be taken by the owners or the strata corporation to restrict or limit the terms of the Housing Agreement, including, but not limited to, amendment to these bylaws".

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

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

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any strata lot designated as a Purpose-Built Rental Housing Dwelling Unit on the Land other than a full interest in the fee simple title to a person, firm, agency, society, or corporation that will continue to ensure that such Purpose-Built Rental Housing Dwelling Unit is used in accordance with this Agreement.

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

- (a) a Purpose-Built Rental Housing Dwelling Unit will only be used as a rental unit and occupied as a permanent residence by a Household pursuant to a Tenancy Agreement;
- (b) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use or allow the use of the Purpose-Built Rental Housing Dwelling Unit for short-term rental accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

### **ARTICLE 4 GENERAL**

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

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.

**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 Purpose-Built Rental Housing Dwelling Units and will permit representatives of the City to inspect the Purpose-Built Rental Housing 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 Purpose-Built Rental Housing 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 Purpose-Built Rental Housing Dwelling Units.

**4.4 Registration & Priority** – The Owner shall, at its expense, do or cause to be done all acts necessary to register this Agreement in the land title office against title to the Land with priority over all financial charges, liens and encumbrances registered, or pending registration, at the time of application for registration of this Agreement against the title to the Land.

**4.5 Notice** - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by fax or email. 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 is to be considered to have been given on the first business day after it is sent and any notice which is sent by email is to be considered to have been given on the day it is sent, and if such day is not a business day, the subsequent business day. If a party changes its address, fax number or email address, it will promptly give notice of its new address, fax number, or email in accordance with this section.

**4.6 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*.

**4.7 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.

**4.8 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.

- 4.9 **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.
- 4.10 **Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.11 **Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.12 **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.
- 4.13 **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.
- 4.14 **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.
- 4.15 **Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.16 **Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.17 **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 General Instrument – Part 1 which is attached to and forms part of this Agreement.

## CONSENT AND PRIORITY AGREEMENT

### RECITALS:

- A. **PC URBAN CLEMENT HOLDINGS LTD.** is the registered owner of PID: 030-571-219, Lot A Section 30 Township 26 Osoyoos Division Yale District Plan EPP83554 (the "Land");
- B. **PC URBAN CLEMENT HOLDINGS LTD.** granted **SHELMARJAY HOLDINGS LTD.** (Inc. No. BC0855415) (the "Prior Chargeholder") a mortgage which was registered against the title to the Land in the Kamloops Land Title Office under number CA7566393 ("Prior Charge");
- C. **PC URBAN CLEMENT HOLDINGS LTD.** granted to the City ("Subsequent Chargeholder") a Section 219 Covenant to which this Priority is attached ("Subsequent Charge"); and
- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

This Priority Agreement is evidence that in consideration of \$1.00 paid by the Subsequent Chargeholder to the Prior Chargeholder (the receipt and sufficiency of which is hereby acknowledged) the Prior Chargeholder grants to the Subsequent Chargeholder priority over the Prior Charge and the Prior Chargeholder covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interests of the Subsequent Chargeholder in and under the Subsequent Charge are the same as if the Subsequent Charge had been executed, delivered and registered against the title to the Land before registration of the Prior Charge.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C Form C which is attached hereto and forms part of this Agreement.

## CONSENT AND PRIORITY AGREEMENT

### RECITALS:

- A. **PC URBAN CLEMENT HOLDINGS LTD.** is the registered owner of PID: 030-571-219, Lot A Section 30 Township 26 Osoyoos Division Yale District Plan EPP83554 (the "Land");
- B. **PC URBAN CLEMENT HOLDINGS LTD.** granted BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION (the "Prior Chargeholder") a mortgage and assignment of rents which were registered against the title to the Land in the Kamloops Land Title Office under number CA7678849 and CA7678850 ("Prior Charges");
- C. **PC URBAN CLEMENT HOLDINGS LTD.** granted to the City ("Subsequent Chargeholder") a Section 219 Covenant to which this Priority is attached ("Subsequent Charge"); and
- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

This Priority Agreement is evidence that in consideration of \$1.00 paid by the Subsequent Chargeholder to the Prior Chargeholder (the receipt and sufficiency of which is hereby acknowledged) the Prior Chargeholder grants to the Subsequent Chargeholder priority over the Prior Charges and the Prior Chargeholder covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interests of the Subsequent Chargeholder in and under the Subsequent Charge are the same as if the Subsequent Charge had been executed, delivered and registered against the title to the Land before registration of the Prior Charges.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C Form C which is attached hereto and forms part of this Agreement.