



(5640 Hollybridge Way) Bylaw No. 9039

The Council of the City of Richmond enacts as follows:

1. The Mayor and City Clerk for the City of Richmond are authorized to execute and deliver a housing agreement, substantially in the form set out in Schedule A to this Bylaw, with the owner of the lands legally described as:

PID: 006-096-115 Lot 109, Section 5, Block 4, North Range 6,
West New Westminster District Plan 46385

2. This Bylaw is cited as “**Housing Agreement (5640 Hollybridge Way) Bylaw No. 9039**”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

JUL 8 2013

JUL 8 2013

JUL 8 2013

CITY OF RICHMOND
APPROVED for content by originating dept.

APPROVED for legality by Solicitor


MAYOR

CORPORATE OFFICER

Schedule A

To Housing Agreement (Cressey Gilbert Holdings Ltd. Inc. No. BC 0915877) Bylaw No. 9039

HOUSING AGREEMENT BETWEEN CRESSEY GILBERT HOLDINGS LTD. (INC.
NO. BC 0915877) AND THE CITY OF RICHMOND

HOUSING AGREEMENT

AFFORDABLE HOUSING SPECIAL DEVELOPMENT CIRCUMSTANCE (Section 905 *Local Government Act*)

THIS AGREEMENT is dated for reference _____, 2013,

BETWEEN:

CRESSEY GILBERT HOLDINGS LTD. (Inc. No. BC0915877), a corporation pursuant to the Business Corporations Act and having an address at 800 – 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2

(the "Owner")

AND:

CITY OF RICHMOND, a municipal corporation pursuant to the *Local Government Act* and having its offices at 6911 No. 3 Road, Richmond, British Columbia, V6Y 2C1

(the "City")

WHEREAS:

- A. Section 905 of the *Local Government Act* permits the City to enter into and, by legal notation on title to lands, housing agreements which may include, without limitation, conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- B. The Owner is the owner of the Lands (as hereinafter defined);
- C. The Owner and the City intend that the Affordable Housing Units (as hereinafter defined) shall be rented by the Owner in perpetuity at rents which would result in the Permitted Rent (as herein defined) for eligible tenants being less than the rents for Affordable Subsidized Rental Housing as stipulated in the Affordable Housing Strategy (as herein defined);
- D. The Owner and the City intend that the Affordable Housing Units will be operated and managed by a Non-Profit Housing Provider (as herein defined); and
- E. The Owner and the City wish to enter into this Agreement (as herein defined) to provide for affordable housing on the terms and conditions set out in this Agreement.

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Section 905 *Local Government Act*
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Rezoning Condition No. 8

NOW THEREFORE in consideration of the matters referred to in the foregoing recitals, the covenants and agreements herein contained and the sum of Ten Dollars (\$10.00) now paid by the City to the Owner and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the parties), the parties hereto hereby covenant and agree as follows:

ARTICLE 1 **DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement the following words have the following meanings:

- (a) **"Affordable Housing Component"** means a 3-story component of the Development, such component to be constructed by the Vendor pursuant to this Agreement, to be located within that portion of the Lands comprising the AHAP and containing all the Affordable Housing Units, and meeting all other construction conditions as specified in this Agreement;
- (b) **"Affordable Housing Strategy"** means the Richmond Affordable Housing Strategy approved by the City on May 28, 2007, and containing a number of recommendations, policies, directions, priorities, definitions and annual targets for affordable housing, as may be amended or replaced from time to time;
- (c) **"Affordable Housing Unit"** means a Dwelling Unit or Dwelling Units designated as such in accordance with a building permit and/or development permit issued by the City and/or, if applicable, in accordance with any rezoning consideration applicable to the development on the Lands and includes, without limiting the generality of the foregoing, the Dwelling Units charged by this Agreement;
- (d) **"Affordable Subsidized Rental Housing"** has the meaning given in the Affordable Housing Strategy, and applicable addenda thereto, as amended from time to time;
- (e) **"Agreement"** or **"this Agreement"** means this agreement and includes all recitals and schedules to this agreement and all instruments comprising this agreement;
- (f) **"AHAP"** or **"Affordable Housing Airspace Parcel"** means the airspace parcel to be created by the Owner by a subdivision of the Lands, which airspace parcel will contain the Affordable Housing Component;
- (g) **"Business Day"** means a day which is not a Saturday, Sunday or statutory holiday (as defined in the *Employment Standards Act* (British Columbia)) in British Columbia;
- (h) **"CAP"** or **"Childcare Airspace Parcel"** means the airspace parcel to be created by the Owner by a subdivision of the Lands, which airspace parcel will contain the Childcare Facility and will be located adjacent to the AHAP;
- (i) **"CCAP"** means the City of Richmond City Centre Area Plan, as may be amended or replaced from time to time;

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- (j) **"Childcare Facility"** means the City-owned childcare facility located adjacent to the Affordable Housing Component, located within the CAP, and to be operated by a non-profit childcare services provider on the basis, *inter alia*, that preference will be given to the children of Tenants for available childcare spaces;
- (k) **"City"** or **"City of Richmond"** means the City of Richmond and is called the "City" when referring to the corporate entity and "City of Richmond" when referring to the geographic location;
- (l) **"City Personnel"** means the City's officials, officers, employees, agents, contractors, licensees, permittees, nominees and delegates;
- (m) **"City Solicitor"** means the individual appointed from time to time to be the City Solicitor of the Law Division of the City, or his or her designate;
- (n) **"Co-ordinated Services"** has the meaning given in section 6.3 of this Agreement;
- (o) **"Core Need Income Threshold"** means the housing income limit established from time to time in the Affordable Housing Strategy on the basis of income level designated by Canada Mortgage Housing Corporation as the upper income eligibility limit for households living in affordable rental housing;
- (p) **"CPI"** means the All-Items Consumer Price Index for Vancouver, B.C. published from time to time by Statistics Canada, or its successor in function;
- (q) **"Daily Amount"** means \$100.00 per day as of January 1, 2009 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since date as per above, to January 1 of the year that a written notice is delivered to the Owner by the City pursuant to section 5.1 of this Agreement. In the absence of obvious error or mistake, any calculation by the City of the Daily Amount in any particular year shall be final and conclusive;
- (r) **"Development"** means any building, improvement or structure constructed or to be constructed by or on behalf of the Owner on the Lands, (or any part thereof) and/or the subdivision of the Lands (or any part thereof) that would be permitted by the rezoning of the Lands;
- (s) **"Director of Development"** means the individual appointed to be the Director of Development of the Development Applications Division of the City of Richmond and his or her designate;
- (t) **"Manager, Community Social Development"** means the individual appointed to be the Manager, Community Social Development from time to time of the Community Services Department of the City and his or her designate;
- (u) **"Dwelling Unit"** means a residential dwelling unit or units located or to be located on the Lands whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, and includes single family detached dwellings,

duplexes, townhouses, auxiliary residential dwelling units, rental apartments and strata lots in a building strata plan and includes, where the context permits, an Affordable Housing Unit;

- (v) **"Eligible Tenant Family"** means a single parent family comprising of one adult individual and one or more minor and dependent children residing primarily with that adult individual in regards to a two bedroom unit and a pregnant woman in regards to the studio unit, having a cumulative annual income of:

- (i) in respect to a studio unit, \$33,500 or less; or
- (ii) in respect to a two bedroom unit, \$45,500 or less,

or such other maximum incomes as may be stipulated in the Affordable Housing Strategy from time to time for Affordable Subsidized Rental Housing, in accordance with the Core Need Income Threshold. In the event that, in applying the values set-out above, the rental increase is at any time greater than the rental increase permitted by the *Residential Tenancy Act*, then the increase will be reduced to the maximum amount permitted by the *Residential Tenancy Act*. In regards to the studio unit, the Eligible Tenant shall include a pregnant woman and may extend to up to one (1) year after the birth the child(ren). In the absence of obvious error or mistake, any calculation by the City of an Eligible Tenant Family's permitted income in any particular year shall be final and conclusive;

- (w) **"Housing Covenant"** means the agreements, covenants and charges granted by the Owner to the City (which includes covenants pursuant to section 219 of the *Land Title Act*) registered against title to the Lands in connection with Rezoning Application No. RZ 2012-602449;
- (x) **"Interpretation Act"** means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (y) **"Land Title Act"** means the *Land Title Act*, RSBC 1996, c. 250, and amendments thereto and re-enactments thereof;
- (z) **"Lands"** means parcel identifier: 006-096-115, Lot 109 Section 5 Block 4 North Range 6 West New Westminster District Plan 46385;
- (aa) **"Local Government Act"** means the *Local Government Act*, R.S.B.C. 1996, Chapter 323, together with all amendments thereto and replacements thereof;
- (bb) **"LTO"** means the Lower Mainland Land Title Office or its successor;
- (cc) **"Non-Profit Housing Provider (NHAP)"** has the meaning given in section 6.3 of this Agreement;
- (dd) **"OCP"** means the City of Richmond Official Community Plan Bylaw No. 7100, as may be amended or replaced from time to time;

- (ee) "Operating Agreement" has the meaning given in section 6.3 of this Agreement;
- (ff) "Owner" means the party described on page 1 of this Agreement as the Owner and any subsequent owner of the Lands or of any part into which the Lands are Subdivided, and includes any person who is a registered owner in fee simple of an Affordable Housing Unit from time to time;
- (gg) "Permitted Rent" means rents, payable by a Tenant to the Non-Profit Housing Provider, no greater than:
 - (i) \$800.00 a month for a studio unit; and
 - (ii) \$950.00 a month for a two bedroom unit;

provided that the rents set-out above may be adjusted in accordance with the percentage rate increases as set out in the current City Affordable Housing Strategy as approved annually by the Council of the City. In the absence of obvious error or mistake, any calculation or determination by the City of the Permitted Rent in any particular year shall be final and conclusive;

- (hh) "*Real Estate Development Marketing Act*" means the *Real Estate Development Marketing Act*, S.B.C. 2004, Chapter 41, together with all amendments thereto and replacements thereof;
- (ii) "Receivable Rent" means a rent that is:
 - (i) payable by the Non-Profit Housing Provider to the Owner under the Operating Agreement;
 - (ii) within the specified range of minimum and maximum monthly rents set out in the column titled "Non-Profit" in the table in Schedule B of this Agreement, in respect of the type of Dwelling Unit in question; and
 - (iii) inclusive of Permitted Rent for each Dwelling Unit covered by the Operating Agreement, and rental financial assistance, if any, provided by the Non-Profit Housing Provider or other agency to or on behalf of a Tenant,

provided that the amounts set out in Schedule B may be adjusted in accordance with the percentage rate increases as set out in the current City Affordable Housing Strategy as approved annually by the Council of the City. In the absence of obvious error or mistake, any calculation or determination by the City of the Receivable Rent in any particular year shall be final and conclusive;

- (jj) "Remainder Lands" means:
 - (i) the remainder of the Lands after creation of the AHAP, CAP and any other airspace or other subdivision plans that further subdivide the Lands; and

- (ii) such other airspace or other parcels, including the CAP, created by the subdivision of the Lands;
- (kk) "**Residential Tenancy Act**" means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (ll) "**Strata Property Act**" means the *Strata Property Act* S.B.C. 1998, Chapter 43, together with all amendments thereto and replacements thereof;
- (mm) "**Subdivide**" means to divide, apportion, consolidate or subdivide the Lands, or any portion thereof, including the ownership or right to possession or occupation of the Lands, or any portion thereof, into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of "cooperative interests" or "shared interest in land" as defined in the *Real Estate Development Marketing Act*;
- (nn) "**Targeted Gross Shelter Costs**" means a cost of housing including rent and electricity that is within the specified range of minimum and maximum monthly shelter costs set out in Schedule B of this Agreement in respect of the type of Dwelling Unit in question, provided that the amounts set out in Schedule B may be adjusted in accordance with the percentage rate increases as set out in the current City Affordable Housing Strategy as approved annually by the Council of the City. In the absence of obvious error or mistake, any calculation or determination by the City of the Targeted Gross Shelter Costs in any particular year shall be final and conclusive;
- (oo) "**Tenancy Agreement**" means a tenancy agreement, lease, license or other agreement granting rights to occupy an Affordable Housing Unit;
- (pp) "**Tenant**" means an occupant of an Affordable Housing Unit by way of a Tenancy Agreement;
- (qq) "**Terms of Reference**" means the non-exhaustive framework of terms and conditions to be included in the Operating Agreement, a copy of which is attached as Schedule C to this Agreement;
- (rr) "**Zoning Bylaw**" means the City of Richmond Zoning Bylaw No. 8500, as may be amended or replaced from time to time.

1.2 In this Agreement:

- (a) words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, and vice versa;

- (b) the division of this Agreement into Articles and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles are to Articles of this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) the provisions of section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) all provisions are to be interpreted as always speaking;
- (h) reference to a "party" is a reference to a party to this Agreement and to that party's respective successors, assigns, trustees, administrators and receivers. Wherever the context so requires, reference to a "party" also includes an Eligible Tenant Family, agent, officer and invitee of the party;
- (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;
- (j) the word "including", when following any general statement, term or matter, will not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, but will be construed to refer to all other items or matters that could reasonably fall within the scope of such general statement, term or matter, whether or not non-limiting language (such as "without limitation", "but not limited to" or words of similar import) is used with reference thereto; and
- (k) any interest in land created hereby, as being found in certain Articles, sections, paragraphs or parts of this Agreement, will be construed, interpreted and given force in the context of those portions of this Agreement:
 - (i) which define the terms used herein;
 - (ii) which deal with the interpretation of this Agreement; and
 - (iii) which are otherwise of general application.

1.3 Schedules

The following Schedules are attached hereto and form part of this Agreement:

Schedule "A"	Statutory Declaration
Schedule "B"	Permitted Rent
Schedule "C"	Terms of Reference for Operating Agreement

ARTICLE 2 USE AND OCCUPANCY OF AFFORDABLE HOUSING UNITS

- 2.1 The Owner agrees that each Affordable Housing Unit may, in perpetuity, only be used as a permanent residence occupied by one Eligible Tenant Family. An Affordable Housing Unit must not be occupied by the Owner, the Owner's family members (unless the Owner's family members qualify as an Eligible Tenant Family), or any tenant or guest of the Owner, other than an Eligible Tenant Family. For the purposes of this Article, "permanent residence" means that the Affordable Housing Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Eligible Tenant Family.
- 2.2 Within 30 days after receiving notice from the City, the Owner must, in respect of each Affordable Housing Unit, provide to the City the statutory declarations as collected by the NPHP, substantially in the form (with, in the City Solicitor's discretion, such further amendments or additions as deemed necessary) attached as Schedule "A", sworn by the NPHP, containing all of the information required to complete the statutory declaration. The City may request such statutory declaration in respect of each Affordable Housing Unit no more than once in any calendar year; provided, however, notwithstanding that the NPHP may have already provided such statutory declaration in the particular calendar year, the City may request and the Owner shall provide, with the assistance of the NPHP, to the City such further statutory declarations as requested by the City in respect to an Affordable Housing Unit if, in the City's absolute determination, the City believes that the Owner is in breach of any of its obligations under this Agreement.
- 2.3 The Owner will, in addition to providing the City with the statutory declarations as described in Section 2.2, provide the City with a copy of the Operating Agreement, as amended from time to time.
- 2.4 The Owner hereby irrevocably authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.
- 2.5 The Owner agrees that notwithstanding that the Owner may otherwise be entitled, the Owner will not occupy, nor permit any person to occupy any portion of any building, in part or in whole, on the Remainder Lands and the City will not be obligated to permit occupancy of any building on the Remainder Lands until all of the following conditions are satisfied:

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- (a) the Affordable Housing Component, Affordable Housing Units, Childcare Facility and related uses and areas are constructed in accordance with Development Permit DP 13-629846, the approved Building Permit and with interior layouts and finishes to the satisfaction of the City;
- (b) the Affordable Housing Component, the Affordable Housing Units and the Childcare Facility have received final building permit inspection permitting occupancy; and
- (c) the Owner is not otherwise in breach of any of its obligations under this Agreement or any other agreement between the City and the Owner in connection with the development of the Lands.

**ARTICLE 3
DISPOSITION AND ACQUISITION OF AFFORDABLE HOUSING UNITS**

- 3.1 The Owner will, and will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will, repair and maintain the AHAP in good and clean order and condition, excepting reasonable wear and tear.
- 3.2 The Owner will, and will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will, include a clause in each Tenancy Agreement requiring the Tenants to repair and maintain the Affordable Housing Units in good order and condition, excepting reasonable wear and tear.
- 3.3 The Owner will not, and will ensure that that the Operating Agreement will provide that the Non-Profit Housing Provider will not, permit an Affordable Housing Unit Tenancy Agreement to be subleased or assigned.
- 3.4 If this Housing Agreement encumbers more than one Affordable Housing Unit, then the Owner may not, without the prior written consent of the City Solicitor, sell or transfer less than five (5) Affordable Housing Units in a single or related series of transactions with the result that when the purchaser or transferee of the Affordable Housing Units becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than five (5) Affordable Housing Units.
- 3.5 The Owner will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider must not rent, lease, license or otherwise permit occupancy of any Affordable Housing Unit except to an Eligible Tenant Family and except in accordance with the following additional conditions:
 - (a) the Affordable Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;
 - (b) the monthly rent payable by a Tenant for the Affordable Housing Unit will not exceed the Permitted Rent applicable to that class of Affordable Housing Unit;
 - (c) the Owner will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will allow the Tenant and any permitted occupant and visitor to have full access to and use and enjoy all common indoor and outdoor

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amenities and facilities on the AHAP and Remainder Lands or any subdivided portion thereof, including parking facilities, in accordance with the Zoning Bylaw, the City's OCP, CCAP policy and included within the registered easements on the Lands in favour of the AHAP intended for such purposes, as may be amended or replaced from time to time;

- (d) the Owner will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will not require the Tenant or any permitted occupant to pay any extra charges or fees for use of any common areas, facilities or amenities on the AHAP, Remainder Lands or any subdivided portion thereof except for those same specific rental and cleaning fees that may be charged to the strata market residential units owners associated with exclusive facility room bookings that may be made at the discretion of the NPHP or its occupants, or for sanitary sewer, storm sewer, other utilities (with the exception of water, if applicable), property or similar tax; provided, however, the Owner or Non-Profit Housing Provider may charge the Tenant their cost, if any, of providing cablevision, telephone, other telecommunications, gas, or electricity fees, charges or rates;
- (e) the Owner will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will attach a copy of this Agreement to every Tenancy Agreement;
- (f) the Owner will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Affordable Housing Unit to comply with this Agreement;
- (g) the Owner will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider will include in the Tenancy Agreement a clause entitling the Non-Profit Housing Provider to terminate the Tenancy Agreement if:
 - (i) an Affordable Housing Unit is occupied by a person or persons other than an Eligible Tenant Family;
 - (ii) the annual income of an Eligible Tenant Family rises above the applicable maximum amount specified in section 1.1(v) of this Agreement;
 - (iii) the Affordable Housing Unit is occupied by more than the number of people the City's building inspector determines can reside in the Affordable Housing Unit given the number and size of bedrooms in the Affordable Housing Unit and in light of any relevant standards set by the City in any bylaws of the City;
 - (iv) the Affordable Housing Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of rent; and/or
 - (v) the Tenant subleases the Affordable Housing Unit or assigns the Tenancy Agreement in whole or in part,

and in the case of each breach, the Owner hereby agrees with the City to, and to ensure that that the Operating Agreement will provide that the Non-Profit Housing Provider will, forthwith provide to the Tenant a notice of termination. Except for section 3.5(g)(ii) of this Agreement [*Termination of Tenancy Agreement if Annual Income of Tenant rises above amount prescribed in section 1.1(v) of this Agreement*], the notice of termination shall provide that the termination of the tenancy shall be effective 30 days following the date of the notice of termination. In respect to section 3.5(g)(ii) of this Agreement, termination shall be effective (1) on the day that is six (6) months following the date that the notice of termination was provided to the Tenant and (2) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the Tenancy Agreement, or as otherwise stipulated in the *Residential Tenancy Act*. The Owner acknowledges and agrees, and will ensure that the Operating Agreement will provide that the Non-Profit Housing Provider acknowledges and agrees, that no compensation is payable, and the Owner is not entitled to and will not claim any compensation from the City, for any payments that the Owner or Non-Profit Housing Provider may be required to pay to the Tenant under the *Residential Tenancy Act*, whether or not such payments relate directly or indirectly to the operation of this Agreement;

- (h) the Tenancy Agreement will identify all occupants of the Affordable Housing Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing at the Affordable Housing Unit for more than 30 consecutive days or more than 45 days total in any calendar year; and
- (i) the Owner will, and will ensure the Operating Agreement requires the Non-Profit Housing Provider to, forthwith deliver a certified true copy of the Tenancy Agreement to the City upon demand.

- 3.6 If the NPHP has terminated the Tenancy Agreement, then the Owner shall, and will ensure that that the Operating Agreement will provide that the Non-Profit Housing Provider shall, use best efforts to cause the Tenant and all other persons that may be in occupation of the Affordable Housing Unit to vacate the Affordable Housing Unit on or before the effective date of termination.

ARTICLE 4 DEMOLITION OF AFFORDABLE HOUSING UNIT

- 4.1 The Owner will not demolish an Affordable Housing Unit unless:
- (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Affordable Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or
 - (b) the Affordable Housing Unit is damaged or destroyed, to the extent of 40% or more of its value above its foundations, as determined by the City in its sole discretion,

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and, in each case, a demolition permit for the Affordable Housing Unit has been issued by the City and the Affordable Housing Unit has been demolished under that permit.

Following demolition, the Owner will use and occupy any replacement Dwelling Unit in compliance with this Agreement and the Housing Covenant both of which will apply to any replacement Dwelling Unit to the same extent and in the same manner as those agreements apply to the original Dwelling Unit, and the Dwelling Unit must be approved by the City as an Affordable Housing Unit in accordance with this Agreement.

ARTICLE 5 DEFAULT AND REMEDIES

- 5.1 The Owner agrees that, in addition to any other remedies available to the City under this Agreement or the Housing Covenant or at law or in equity, if an Affordable Housing Unit is used or occupied in breach of this Agreement or rented at a rate in excess of the Permitted Rent or Target Gross Shelter Costs or the Owner is otherwise in breach of any of its obligations under this Agreement or the Housing Covenant, the Owner will pay the Daily Amount to the City for every day that the breach continues after ten (10) days written notice from the City to the Owner stating the particulars of the breach. For greater certainty, the City is not entitled to give written notice with respect to any breach of the Agreement until any applicable cure period, if any, has expired. The Daily Amount is due and payable five (5) Business Days following receipt by the Owner of an invoice from the City for the same, and such invoice will be given and deemed received in accordance with section 6.10 [Notice] of this Agreement.
- 5.2 The Owner acknowledges and agrees that a default by the Owner of any of its promises, covenants, representations or warranties set-out in the Housing Covenant shall also constitute a default under this Agreement.

ARTICLE 6 MISCELLANEOUS

6.1 Housing Agreement

The Owner acknowledges and agrees that:

- (a) this Agreement includes a housing agreement entered into under section 905 of the *Local Government Act*, and
- (b) where the Lands have not yet been Subdivided to create the separate parcels to be charged by this Agreement, the City may file a notice of this Agreement in the LTO against the title to the Lands. If this Agreement is filed in the LTO as a notice under section 905 of the *Local Government Act* prior to the Lands having been Subdivided, and it is the intention that this Agreement is, once separate legal parcels are created and/or the Lands are subdivided, to charge and secure only the legal parcels or Subdivided Lands which contain the Affordable Housing Units, then the City Solicitor shall be entitled, without further City Council approval, authorization or bylaw, to partially discharge this Agreement accordingly. The Owner acknowledges and agrees that notwithstanding a partial

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discharge of this Agreement, this Agreement shall be and remain in full force and effect and, but for the partial discharge, otherwise unamended.

6.2 Modification

Subject to section 6.1 of this Agreement, this Agreement may be modified or amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

6.3 Management and Co-ordinated Services

The Owner covenants and agrees that it will:

- (a) work with the City in a joint selection process, based on criteria established jointly by the City and the Owner, for the selection of a qualified non-profit affordable housing provider with the skill and expertise to manage the Affordable Housing Units and the Co-ordinated Services jointly with the Owner (the "**Non-Profit Housing Provider**") that is mutually agreed upon by the Owner and the City;
- (b) at the Owner's expense, hire the selected Non-Profit Housing Provider to, jointly with the Owner, furnish efficient management of the Affordable Housing Units and the Co-ordinated Services
- (c) enter into an agreement with the selected Non-Profit Housing Provider that relates to the operation and management of the Affordable Housing Component and Affordable Housing Units and the provision and management of Co-ordinated Services to the Tenants on terms and conditions substantially consistent with the Terms of Reference, (the "**Operating Agreement**");
- (d) obtain the City's written approval of the Operating Agreement before entering into the Operating Agreement with the Non-Profit Housing Provider, and will not amend the Operating Agreement without the prior written approval of the City;
- (e) work collaboratively with the City, Non-Profit Housing Provider and other non-profit and provincial housing, community service and health providers, in the development of a coordinated approach for the delivery of accessible affordable housing, social programs and support for families, including in the areas of life skills, self sufficiency, financial literacy, health education, higher education, and employment opportunities (the "**Co-ordinated Services**"); and
- (f) furnish good and efficient management of the Affordable Housing Component and will permit representatives of the City to inspect the Affordable Housing Component at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Affordable Housing Component in a good state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands and in accordance with the Terms of Reference in Schedule "C". Notwithstanding the foregoing, if the Affordable Housing Component is not in a good state of repair and fit for habitation, the Owner acknowledges and agrees that the City, may require the Owner, at the Owner's

expense, to hire a person or company with the skill and expertise in property management to undertake management of the Affordable Housing Component to ensure a good state of repair fitness for habitation, such person or company to be selected by the Owner based on criteria jointly developed by the City and Owner.

6.4 Indemnity

Except in the case of negligence or wilful misconduct by the City and/or the City Personnel, the Owner hereby releases and indemnifies and saves harmless the City and the City Personnel from all loss, damage, costs (including without limitation, legal costs), expenses, actions, suits, debts, accounts, claims and demands, including without limitation, any and all claims of third parties, which the City or the City Personnel may suffer, incur or be put to arising out of or in connection, directly or indirectly or that would not or could not have occurred "but for":

- (a) this Agreement;
- (b) any breach by the Owner of any covenant or agreement contained in this Agreement;
- (c) any personal injury, death or damage occurring in or on the AHAP or CAP, including the Affordable Housing Units and Childcare Facility;
- (d) the exercise of discretion by any City Personnel for any matter relating to this Agreement;
- (e) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands, Affordable Housing Component or any Affordable Housing Unit or the enforcement of any Tenancy Agreement; and/or
- (f) the exercise by the City of any of its rights under this Agreement or an enactment.

6.5 Survival

The obligations of the Owner set out in this Agreement will survive termination or discharge of this Agreement.

6.6 Priority

The Owner agrees, if required by the City Solicitor, to cause the registrable interests in land granted pursuant to this Agreement to be registered as first registered charges against the Lands, at the Owner's expense, save only for any reservations, liens, charges or encumbrances:

- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;

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- (b) registered in favour of the City; or
- (c) which the City has determined may rank in priority to the registrable interests in land granted pursuant to this Agreement,

and that a notice under section 905(5) of the *Local Government Act* will be filed on the title to the Lands.

6.7 No Fettering and No Derogation

Nothing contained or implied in this Agreement shall fetter in any way the discretion of the City or the Council of the City. Further, nothing contained or implied in this Agreement shall derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Community Charter* or the *Local Government Act*, as amended or replaced from time to time, or act to fetter or otherwise affect the City's discretion, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands, or any Subdivided portion thereof, and the Owner, as if this Agreement had not been executed and delivered by the Owner and the City.

6.8 Agreement for Benefit of City Only

The Owner and the City agree that:

- (a) this Agreement is entered into only for the benefit of the City;
- (b) this Agreement is not intended to protect the interests of the Owner, any Tenant, or any future owner, lessee, occupier or user of the Remainder Lands or the Affordable Housing Component or any portion thereof, including any Affordable Housing Unit; and
- (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.

6.9 No Public Law Duty

Where the City is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.

6.10 Notice

Any notice or communication required or permitted to be given pursuant to this Agreement will be in writing and delivered by hand or sent by prepaid mail or facsimile to the party to which it is to be given as follows:

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(a) to the City:

City of Richmond
6911 No. 3 Road
Richmond, B.C., V6Y 2C1

Attention: City Clerk
Fax: 604 276-5139

with a copy to the Director of Development, the Manager, Community and Social Development and the City Solicitor;

(b) to the Owner, to the address as set out on the title for the Lands,

or to such other address or fax number as any party may in writing advise. Any notice or communication will be deemed to have been given when delivered if delivered by hand, two Business Days following mailing if sent by prepaid mail, and on the following Business Day after transmission if sent by facsimile.

6.11 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and assigns.

6.12 Severability

If any Article, section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the remainder of this Agreement will continue in full force and effect and, in such case, the parties hereto will agree upon an amendment to be made to the Article, section, subsection, sentence, clause or phrase previously found to be invalid and will do or cause to be done all acts reasonably necessary in order to amend this Agreement so as to reflect its original spirit and intent.

6.13 No Waiver and Remedies

The Owner and the City acknowledge and agree that no failure on the part of either party hereto to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by either party of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies provided in this Agreement will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for either party in this Agreement will be deemed to be in addition to and not, except as expressly stated in this Agreement, restrictive of the remedies of either party hereto at law or in equity.

6.14 Sole Agreement

This Agreement, and any documents signed by the Owners contemplated by this Agreement (including, without limitation, the Housing Covenant), represent the whole agreement between the City and the Owner respecting the use and occupation of the Affordable Housing Units, and there are no warranties, representations, conditions or collateral agreements made by the City except as set forth in this Agreement. In the event of any conflict between this Agreement and the Housing Covenant, this Agreement shall, to the extent necessary to resolve such conflict, prevail.

6.15 Further Acts

The parties to this Agreement will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

6.16 Equitable Relief

The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the City will be entitled to all equitable remedies, including, without limitation, specific performance, injunction and declaratory relief, or any combination thereof, to enforce its rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement. The Owner acknowledges and agrees that no failure or delay on the part of the City to exercise any right under this Agreement will operate as a waiver by the City of such right.

6.17 No 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.

6.18 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

6.19 Deed and Contract

By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

6.20 Joint and Several

If the Owner is comprised of more than one person, firm or body corporate, then the covenants, agreements and obligations of the Owner shall be joint and several.

6.21 No Liability

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The parties agree that neither the Owner, nor any successor in title to the Lands, or Remainder Lands, or portions thereof, will be liable for breaches of or non-observance or non-performance of covenants contained in this Agreement occurring after the date that the Owner or its successor in title, as the case may be, ceases to be the registered or beneficial owner of the Lands or Remainder Lands or portions thereof; provided, however, the Owner or its successors in title, as the case may be, shall remain liable after ceasing to be the registered or beneficial owner of the Lands or Remainder Lands or portions thereof for all breaches of and non-observance and non-performance of covenants in this Agreement if the breach, non-observance or non-performance occurred prior to the Owner or any successor in title, as the case may be, ceasing to be the registered or beneficial owner the Lands, Remainder Lands or portions thereof.

6.22 City Approval and Exercise of Discretion

Any City approval or consent to be given pursuant to or in connection with this Agreement is not effective or valid unless provided by the City in writing. Any City approval or consent to be granted by the City in this Agreement may, unless stated expressly otherwise, be granted or withheld in the absolute discretion of the City.

6.23 No Compensation

The Owner acknowledges and agrees that no compensation is payable, and the Owner is not entitled to and will not claim any compensation from the City, for any decrease in the market value of the Lands, Remainder Lands, or any subdivided portion thereof, and for any obligations on the part of the Owner and its successors in title which at any time may result directly or indirectly from the operation of this Agreement.

6.24 Runs with land

The interest in lands including all covenants, rights of way and easements as the case may be, contained in this Agreement will, unless discharged in accordance with this Agreement, run with and bind the Lands, Remainder Lands and AHAP in perpetuity.

6.25 Time of Essence

Time, where mentioned herein, will be of the essence of this Agreement.

6.26 Assignment of Rights

The City, upon prior written notice to the Owner, may assign or license all or any part of this Agreement or any or all of the City's rights under this Agreement to any governmental agency or to any corporation or entity charged with the responsibility for providing or administering the Affordable Housing Strategy or other related public facilities, services or utilities. The Owner may not assign all or any part of this Agreement without the City's prior written consent.

6.27 Counterparts

This Agreement may be signed by the parties hereto in counterparts and by facsimile or pdf email transmission, each such counterpart, facsimile or pdf email transmission copy

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shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument and may be compiled for registration, if registration is required, as a single document.

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

CRESSEY GILBERT HOLDINGS LTD.

by its authorized signatory(ies):

Per: _____

Name: _____

Per: _____

Name: _____

CITY OF RICHMOND

by its authorized signatory(ies):

Per: _____

Malcolm D. Brodie, Mayor

Per: _____

David Weber, Corporate Officer

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor
DATE OF COUNCIL APPROVAL

SCHEDULE "A"
STATUTORY DECLARATION

CANADA)	IN THE MATTER OF A HOUSING
)	AGREEMENT WITH THE CITY OF
PROVINCE OF BRITISH COLUMBIA)	RICHMOND
)	("Housing Agreement")

TO WIT:

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner or authorized signatory of the owner of _____ (the "Affordable Housing Unit"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Housing Agreement in respect of the Affordable Housing Unit.
3. For the period from _____ to _____ the Affordable Housing Unit was occupied only by the Eligible Tenant Family (as defined in the Housing Agreement) whose names and current addresses and whose employer's names and current addresses appear below:

[Names, addresses and phone numbers of Eligible Tenant Family and their employer(s)]

4. The rent charged each month for the Affordable Housing Unit is as follows:
 - (a) the monthly rent on the date 365 days before this date of this statutory declaration: \$_____ per month;
 - (b) the rent on the date of this statutory declaration: \$_____; and
 - (c) the proposed or actual rent that will be payable on the date that is 90 days after the date of this statutory declaration: \$_____.
5. I acknowledge and agree to comply with the Owner's obligations under the Housing Agreement, and other charges in favour of the City noted or registered in the Land Title Office against the land on which the Affordable Housing Unit is situated and confirm that the Owner has complied with the Owner's obligations under the Housing Agreement.

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6. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at the City of _____, in the Province of British Columbia, this _____ day of _____, 20____.

A Commissioner for Taking Affidavits in the
Province of British Columbia

DECLARANT

SCHEDULE "B"

PERMITTED RENT AND RECEIVABLE RENT

2 Bedroom Units	Tenant	Non-Profit
Minimum Monthly Rent ¹	\$0	\$950
Minimum Shelter Costs (i.e. rent and electricity)	\$0	\$994
Maximum Monthly Rent	\$950	\$1,137
Maximum Shelter Costs (i.e. rent and electricity)	\$994	\$1,137

Studio Units	Tenant	Non-Profit
Minimum Monthly Rent ¹	\$0	\$800
Minimum Shelter Costs (i.e. rent and electricity)	\$0	\$837
Maximum Monthly Rent	\$800	\$800
Maximum Shelter Costs (i.e. rent and electricity)	\$837	\$837

SCHEDULE "C"

TERMS OF REFERENCE FOR OPERATING AGREEMENT

Definitions

All capitalized terms used in these Terms of Reference have, unless otherwise indicated, the meanings given in the Housing Agreement to which these Terms of Reference are attached.

Background

The City and Owner wish to construct the Affordable Housing Component, Affordable Housing Units and Childcare Facility at the Owner's development on the Lands (the "Development"). The Affordable Housing Units will consist of:

- 15 units of Affordable Subsidized Rental Housing (14 2-bedroom units and 1 studio unit);
- A 470 sf2 amenity room with a kitchen (the "Amenity Room");
- Common halls, easement access to the elevator core, stairway and adjacent landing and lobby areas down to the basement P1 level of the Development;
- Designated refuse and recycling areas; and
- Indoor parking within the Development's parkade, with a minimum of 13 resident spaces within the AHAP and 3 visitor spaces in the general visitor parking on the Remainder Lands.

Purpose

The purpose of the City's project with the Owner (the "Project") is to support low income single parent families to gain self-sufficiency through the access and delivery of affordable housing, social programs and support for families, such as life skills, self sufficiency opportunities, financial literacy, health education, higher education, and employment.

The City and Owner will work together to select a Non-Profit Housing Provider to manage and operate the Affordable Housing Units, and to develop and manage the Co-ordinated Services.

The Owner will enter into an Operating Agreement with the Non-Profit Housing Provider.

Key Terms

The Operating Agreement to be entered into between the Owner and the Non-Profit Housing Provider will be consistent with the Housing Agreement to which these Terms of Reference are attached, and the purpose and social and community principles of the Project.

The Operating Agreement will contain provisions relating to the following key areas:

- **Term.** The Operating Agreement will be a long-term agreement of at least [10] years, to be decided based on factors including financial viability, timeframes for meeting the purposes of the Project, and City approval.
- **Renewal.** Any renewal of the Term should be subject to City approval.

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- **Standards.** The Owner and Non-Profit Housing Provider will operate and manage each Affordable Housing Unit in accordance with the Affordable Housing Strategy and City guidelines for Affordable Subsidized Rental Housing in effect from time to time, unless otherwise agreed to by the Owner, the Director of Development and the Manager, Community Social Development, and to the standards as would ordinarily be expected from a qualified, skilled and experienced Canadian housing provider undertaking similar services.
- **Co-ordinated Services.** The Non-Profit Housing Provider will manage the Co-ordinated Services, which are defined in the Affordable Housing Agreement as collaboration with the City and other non-profit and provincial housing, community service and health providers, in the development of a coordinated approach for the delivery of accessible affordable housing, social programs and support for families, including in the areas of life skills, self sufficiency, financial literacy, health education, higher education, and employment opportunities.
- **Tenancy Agreements.** The Non-Profit Housing Provider will enter into Tenancy Agreements with Tenants, for rents not greater than the Permitted Rent.
- **Ability to reduce rents.** The Non-Profit Housing Provider may, in its sole discretion, charge Tenants rents lower than the Permitted Rent amounts as set out in the Schedule of Rents paragraph below.
- **Rent collection.** The Non-Profit Housing Provider will collect all rents due from Tenants and from any other assisting agency or body making all or a portion of rent payments on behalf of any Tenants.
- **Payments to Owner.** The Non-Profit Housing Provider will pay the Receivable Rents to the Owner.
- **Potential Additional Rent.** The Non-Profit Housing Provider may, in its sole discretion, pay to the Owner an additional monthly rent of \$187 for a 2-bedroom Dwelling Unit, provided that such payments of additional rent to the Owner do not impair the Non-Profit Housing Provider's ability to charge Tenants rents lower than the Permitted Rent amounts or compromise the quality of delivery of the Co-ordinated Services to the Tenants.
- **Schedule of Rents.** The Operating Agreement will include a schedule of rents as follows:

2 Bedroom Units (14 Units)	Tenant (Permitted Rents)	Non-Profit (Receivable Rents)
Minimum Monthly Rent ¹	\$0	\$950
Minimum Shelter Costs (i.e. rent and electricity)	\$0	\$994
Maximum Monthly Rent	\$950	\$1,137
Maximum Shelter Costs (i.e.	\$994	\$1,137

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rent and electricity)		
Studio Units (1 Unit)	Tenant	Non-Profit
Minimum Monthly Rent ¹	\$0	\$800
Minimum Shelter Costs (i.e. rent and electricity)	\$0	\$837
Maximum Monthly Rent	\$800	\$800
Maximum Shelter Costs (i.e. rent, power and water)	\$837	\$837

¹This is the minimum total rent to be received by the Owner from the Non-Profit Housing Provider, comprising Permitted Rent amounts and any financial assistance provided to or on behalf of Tenants by any social, community, health, provincial or other agency or body.

- **Securing support.** The Owner and Non-Profit Housing Provider will agree to co-operate to seek and secure financial support from senior levels of government and/or the private sector for the operation of the Affordable Housing Units.
- **Inspection.** The Operating Agreement will permit representatives of the City to inspect the Affordable Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.
- **Maintenance of Units.** The Owner and Non-Profit Housing Provider will jointly maintain the Affordable Housing Units and the AHAP in a good state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands. The Non-Profit Housing Provider will, include a clause in each Tenancy Agreement requiring the Tenant to, repair and maintain the Affordable Housing Units in good order and condition, excepting reasonable wear and tear.
- **Capital repairs and maintenance.** The Owner will maintain the envelope of the Affordable Housing Building and will make all capital repairs to the Affordable Housing Building and Affordable Housing Units at its own expense. The Non-Profit Housing Provider will have no obligations in this regard.
- **City approval.** The City's approval of the terms and conditions of the final form of Operating Agreement will be required, and no amendments to the Operating Agreement may be made without the City's prior written approval.
- **Representations and Warranties.** The Non-Profit Housing Provider will provide the usual warranties as to legal standing, authorization, financial ability, funding or other support enabling the provision of the services under the Operating Agreement.
- **Access.** The Non-Profit Housing Provider will provide access to the Affordable Housing Building, including the Amenity Room and the Childcare Facility, for providers of Co-ordinated Services.
- **Housing Agreement.** The Owner will ensure that the Operating Agreement is consistent with the terms of the Housing Agreement and Housing Covenant entered into

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between the Owner and the City, with particular reference to Article 3 of the Housing Agreement.

- **Statutory Declaration.** The Owner will ensure that the Operating Agreement obliges the Non-Profit Housing Provider to provide the City with Statutory Declarations in compliance with the applicable Affordable Housing Provisions.
- **Usual provisions.** The Operating Agreement will contain all the other usual provisions contained in operating agreements between property owners and providers of affordable housing, including but not limited to policies, procedures and manuals to be used for the operation and management of the Affordable Housing Units, including but not limited to:
 - Tenancy Agreements and addenda;
 - Tenant regulations and manuals;
 - Access to and security of the building and individual units;
 - Maintaining accurate and complete operational and other records;
 - Retention, disclosure and access to records;
 - Monitoring and reporting obligations;
 - Operational review;
 - Compliance with statutory health and safety standards;
 - Fire safety: carrying out regular inspections and observation of fire regulations;
 - Insurance requirements;
 - Financial management, including operating budgets, reserve and contingency funds, rental arrears policies and procedures;
 - Fair, transparent, consistent and non-discriminatory policies and procedures for Tenant selection, including eligibility criteria, waiting lists, application procedures and guidelines;
 - Liability;
 - Events of default;
 - Consequences of default;
 - Termination;
 - Dispute Resolution; and
 - General provisions and interpretation.