



IN CAMERA

#### ADMINISTRATIVE REPORT

Report Date: April 3, 2013  
Contact: Michael Flanigan  
Contact No.: 604.873.7422  
RTS No.: 10015  
VanRIMS No.: 08-2000-21  
Meeting Date: April 9, 2013

TO: Vancouver City Council

FROM: General Manager of Real Estate and Facilities Management and the Director of Real Estate Services, in consultation with the Director of Finance, General Manager of Community Services, General Manager of Engineering Services, and Director of Legal Services

SUBJECT: Development Agreement and Related Contracts for the Sale of City-owned land located at 508 Helmcken Street for the development of new social housing

#### IN CAMERA RATIONALE

This report is recommended for consideration by Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the city.

#### RECOMMENDATION

- A. *THAT Council authorize the Director of Real Estate Services to complete contract negotiations with The 127 Society for Housing (the "Society") and British Columbia Housing Management Commission ("BC Housing") for the lease of land and improvements to be constructed on the property located at 1077-1099 Richards Street, legally described as PID: 004-904-125 PID: 015-485-811 PID: 003-690-806, PID: 006-706-673 LOT 20 to LOT 23, all of BLOCK 84 DISTRICT LOT 541 PLAN 210 (the "Brenhill Lands"); and authorize the Director of Real Estate Services to execute an offer to lease (the "Offer to Lease") for a new 60-yr lease agreement (the "Lease Agreement") with the Society, as lessee of the Brenhill Lands and the 162 unit social housing project (the "Non-Market Housing Project") to be constructed on the Brenhill Lands and thereafter transferred together with the Brenhill Lands to the City; the Offer to Lease and Lease Agreement to be on such terms and conditions as are acceptable to the General Manager of Real Estate and Facilities Management, Managing Director of Social Development, the Director of Finance, and Director of Legal Services, including:*

- i. *a phased prepayment of the rent payable by the Society pursuant to the Lease Agreement of approximately \$9.9 million (the "Prepaid Rent"), of which approximately \$8.1 million will be payable within 12 months of final occupancy permit issuance for the Non-Market Housing Project and an additional \$1.8 million will be payable upon maturity of the remaining outstanding BCH/CMHC mortgage; and*
- ii. *financing of the Prepaid Rent by new mortgage(s) of the Society's leasehold interest in the Brenhill Lands and the Non-Market Housing Project, to be negotiated with BC Housing/CMHC and/or other third party lenders (the "Mortgage"), with the Mortgage and any related financing documents to be on such terms and conditions as are acceptable to the Director of Finance and Director of Legal Services.*

*As the prepaid lease of approximately \$9.9 million is below the applicable market rate of \$28.6 million, RECOMMENDATION A(i) constitutes a grant valued at approximately \$18.7 million and approval requires eight affirmative votes of Council.*

**B. THAT, subject to obtaining Council approval of RECOMMENDATION A:**

- i. *THAT Council, pursuant to the land exchange contract (the "Land Exchange Contract") entered into between the City and Brenhill Developments Limited ("Brenhill") with an effective date of January 28, 2013, for the City lands (the "City Lands") located at 508 Helmcken Street, legally described as PID: 015-482-073, PID: 015-482-081, PID: 015-482-138, PID: 015-482-162 PID: 015-482-260 LOT 34 to LOT 38, all of BLOCK 94 DISTRICT LOT 541 PLAN 210, and the City Lane (as shown on Appendix A), authorize the Director of Legal Services and Director of Real Estate Services to negotiate and execute a development agreement (the "Development Agreement") with Brenhill, the Society, and BC Housing/Canadian Mortgage and Housing Corporation ("CMHC") to construct the Non-Market Housing Project, to be transferred upon completion to the City together with the Brenhill Lands, at no development or construction cost risk to the City; the Development Agreement to be on such terms and conditions as are acceptable to the General Manager of Real Estate and Facilities Management, General Manager of Engineering, and Director of Legal Services;*
- ii. *THAT Council direct City staff to complete negotiations with the Society and BC Housing/CMHC and authorize the Managing Director of Social Development to, concurrently with the Lease, enter into a 60 year operating agreement (the "Operating Agreement") with the Society and BC Housing/CMHC that will govern the Society's operation of the Brenhill Lands and the Non-Market Housing Project as more particularly set out below in this report; the Operating Agreement to be on such terms and conditions as are acceptable to the General Manager of Real Estate and Facilities Management, General Manager of Community Services, Director of Finance, and Director of Legal Services.*

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- C. *THAT, when City staff conclude such negotiations with Brenhill, BC Housing, CMHC, and the Society, that the Offer to Lease, Lease Agreement, Development Agreement, and Operating Agreement be subject to the City Lands being successfully rezoned, at Brenhill's sole risk and expense.*
- D. *THAT a Council decision to enter into the Offer to Lease, Lease Agreement, Development Agreement, and/or Operating Agreement with Brenhill, BC Housing and/or the Society will not in any way limit Council or the City and its officials, including the Approving Officer, in exercising their discretion with respect to any related rezoning, permitting, or subdivision of the City Lands or Brenhill Lands.*
- E. *THAT no legal rights or obligations will arise or be created between:*
- i. the Society and the City for the lease of the Brenhill Lands and the Non-Market Housing Project unless and until a legally binding Lease Agreement, is successfully negotiated and executed and delivered by the Society and the City through its authorized signatories, the Director of Legal Services and the Director of Real Estate Services;*
  - ii. the Society, BC Housing/CMHC, and the City for the operations of the Brenhill Lands and the Non-Market Housing Project unless and until a legally binding Operating Agreement is successfully negotiated, executed and delivered by the Society, BC Housing/CMHC and the City through its authorized signatories, the Director of Legal Services and the General Manager of Community Services; and,*
  - iii. Brenhill, the Society, BC Housing/CMHC, and the City for the development and financing of the Non-Market Housing Project unless and until a legally binding Development Agreement is successfully negotiated and executed and delivered by Brenhill, the Society, BC Housing/CMHC, and the City through its authorized signatories, the Director of Legal Services and the Director of Real Estate Services.*

## **REPORT SUMMARY**

On October 31, 2012, staff presented Council with a project briefing on the proposed Brenhill land transaction for the City owned property located at 508 Helmcken Street (RTS 9821). The purpose of this Report is to update Council on the outcome of the negotiations staff have undertaken to date with Brenhill Development, 127 Society for Housing, and BC Housing/CMHC to achieve the stated Council Housing and Homelessness objectives. This Report further seeks Council approval for staff to finalize the unit count, tenant mix, operating model, and mortgage finance recommendations in order to complete the new Lease Agreement, Operating Agreement, and Development Agreement with the respective parties.

At the October 31, 2012 Council briefing, City staff advised Council that Brenhill had approached the City with a "sole source" land exchange proposal that would involve the transfer of ownership of the Brenhill Lands to the City in exchange for fee simple title to the City Lands. In consideration for the City agreeing to the land exchange,

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including transfer of ownership of the City Lane, and further subject to a proposed rezoning of the City Lands by Vancouver City Council, Brenhill would be responsible for all costs and risk of constructing and fitting out approximately 172 non-market housing units on the Brenhill Lands, to be owned by the City and built pursuant to the City's non-market housing construction plans and specifications.

The total construction value for the Non-Market Housing Project was estimated at \$30,600,000, to be funded from a projected \$25,000,000 in CAC's from the proposed rezoning of the City Land, with the balance to be funded through reinvestment of the differential sale proceeds of the land transaction. In addition, Brenhill proposed to build 110 units of market rental housing in their market condominium tower to be secured by a City Housing Agreement over the City Lands, protecting this affordable rental housing stock for a minimum of 60 years, or life of the building, whichever term is longer. If the proposed rezoning of the City Lands is successful, Brenhill would also contribute a further \$1,000,000 in cash to the City's Affordable Housing Fund (AHF), to be used in part to fund the City's and the Society's project management and related legal, tenant relocation, and administrative expenses.

Given that the final unit count, unit sizes, tenant mix, operating model, and prepaid lease options remained to be finalized with the Society at that time, and the number of units in comprising the Non-Market Housing Project was subject to change (+/- 10) depending on final project design, Council directed that the final decision pertaining to the new Lease Agreement, Operating Agreement, and Development Agreement were to be reported back to Council for final approval once these deal terms were better known.

Staff are pleased to advise that the Lease Surrender agreement and Land Exchange Contract have now been successfully negotiated and executed. The architectural design for the Non-Market Housing Project on the Brenhill Lands has been through a number of iterations and the final count has settled at 162 units, as further detailed in this Report.

The proposed rezoning submission for the City Lands has also been refined and was submitted to the City (as regulator) on February 8, 2013. The completion of these agreements, and the significant progress on the design/development work, has provided staff with sufficient confidence to now finalize the remaining contracts that are the subject of this Report.

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### ***COUNCIL AUTHORITY/PREVIOUS DECISIONS***

Council's mission is to create a city of communities that cares about its people, its environment, and the opportunities to live, work, and prosper.

Council's Housing and Homelessness Strategy empowers City staff to work with other City departments, community partners, and all levels of government, to:

- Leverage the City's assets to build more affordable housing
- Build additional supportive housing for our most vulnerable citizens
- Target shelters, and supportive and social housing to underserved neighbourhoods
- Enhance support to renters
- Increase the opportunities for renters to become homeowners

Council's priorities for social housing are to maintain and expand housing opportunities with priority being given to families with children, SRO residents, and the mentally ill, physically disabled, and others at risk of homelessness.

The City leases land for non-market housing on 40-year or 60-year terms and currently considers prepaid rent of 50% of freehold land value to be the market value of a 40 year ground lease, and 75% of freehold land value to be the market value of a 60 year ground lease. Where improvements owned by the City are included in a non-market housing lease, the City considers 75% of the land and improvement value to be the market value of a 60 year lease.

Section 190(b) of the Vancouver Charter authorizes Council to dispose of City-owned property deemed to be surplus to the City's needs and requires an affirmative vote of two-thirds of all members of Council for the disposition of property which exceeds \$400,000 in value.

Council policy is to dispose of City-owned land through a public tender process. Council policy further provides for the direct sale of property without a public tendering in certain circumstances, such as those set out in this Report.

On April 18, 2012, staff presented Council with a project briefing on the proposed Brenhill land transaction and were directed to report back to Council with a revised deal structure that placed a stronger emphasis on achieving increased affordability options for the project.

On October 31, 2012, staff presented Council with a follow-up briefing and the Resolutions of that meeting are included as Appendix B.

### ***CITY MANAGER'S/GENERAL MANAGER'S COMMENTS***

Council's Housing and Homelessness Strategy is an ambitious plan to address a critical policy goal for the city. The plan is multipronged and requires staff to develop innovative approaches to leverage city assets and partnerships to increase the number of social, supportive and affordable housing units across the city. The first annual progress report (2012) presented recently to Council demonstrated the progress which has been made through a variety of initiatives across the housing continuum. This report outlines an innovative opportunity and partnership which will renew and increase social housing units in the downtown south neighbourhood of Vancouver and in addition, through the rezoning proposal

which will be outlined in a subsequent report to Council, leverage over 100 additional units of market rental housing as part of the overall initiative.

This report outlines the use of a number of strategies to leverage the construction of a new social housing facility with 162 units (87 replacement, 75 incremental units):

- a strategic land swap involving two sites (one of which was an 87 unit social housing facility run by a non-profit operator on a city site) in close proximity
- the allocation of the anticipated CAC from the proposed rezoning for the development of the non-market housing
- the return of the City's equity through a pre-paid rent from the Society leveraged on the 60-year lease.
- The use of the development agreement to:
  - transfer the financial and construction risk to the developer for the delivery of the non-market housing for the City
  - ensure that the non-market housing is built first and the residents of Jubilee House transferred to the new facility prior to commencement of construction of the market housing project
  - establish a maximum construction budget with any savings retained by the city

A cross disciplinary team of staff from Housing, Real Estate, Planning, Facilities, Law and Finance have worked to support the negotiation of this innovative housing partnership. With approval of this report by Council, the negotiations will be completed and documents executed and then the rezoning application report will be brought forward for referral to Public Hearing.

In summary, the absence of a national housing strategy, the lack of federal social and affordable housing programs and the constrained resources at the provincial level require the city to find new and creative ways to continue to move ahead on our housing targets - this is one such example of how the city can achieve both refurbishment and expansion of social housing in our city through a combination of strategic partnerships, responsible leverage of City assets, regulation and policy, and a due diligence approach.

## **REPORT**

### ***Background/Context***

The City owns the lands on which the Jubilee House is located at 508 Helmcken Street. This City land is leased to the Society which owns the building during the term of the lease, a non-market housing project built in 1985 containing 87 units. The term of the lease is for 41 years, with an option to renew for a further 20 years bringing the expiry date to 2046. Tenants in the building currently reside in 78 studio units, 5 one bedroom units, and 4 Accessible studio units and are low and limited income residents over the age of 45. The City does not have any financial obligations for these 87 housing units, as this project is subsidized by BC Housing. In order to proceed with the development proposal, however, the City has to obtain the Society's agreement to surrender their existing lease interest, provided replacement accommodation for the existing Jubilee residents in the new project is secured.

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## ***STRATEGIC ANALYSIS***

### ***Transaction Framework***

In order to complete the necessary legal agreements to secure the respective obligations and responsibilities of the parties to this transaction, staff have created a transaction framework that will guide the completion of the required contracts, including those identified in RECOMMENDATION A and B. Both the City Lands and the Brenhill Lands will also require Development Permit processes to approve the respective forms of development being contemplated.

### ***Jubilee House - Lease Surrender***

Further to Council's direction on October 31, 2012, City staff have now concluded the negotiations with the Society and Brenhill to successfully secure a conditional Lease Surrender. The Lease Surrender is subject to meeting a number of condition precedents, in favour of the City, Society, and Brenhill. One of the material considerations is that the City grant a new Lease Agreement to the Society for a recharged lease term of sixty (60) years for the Non-Market Housing Project. RECOMMENDATION A provides the authority to staff to conclude negotiations and execute an Offer to Lease, and upon completion of the Non-Market Housing Project and the transfer of that Project and the Brenhill Lands to the City, a new Lease Agreement, in order to proceed with the Development Agreement. It is also a material term and condition of the Lease Surrender that the Non-Market Housing Project would be developed, with residents moved in, prior to Brenhill commencing demolition of the Jubilee House on the City Lands.

### ***Non-Market Housing Project - Final Unit Count***

In order to finalize the new Lease Agreement, staff must obtain the Society's agreement to the building design, final unit count, tenant mix, City's non-market housing design standards and construction specifications, parking/storage layouts, and configuration and fixturing of the amenity areas. Brenhill has been very cooperative with staff and the Society and after numerous design meetings with the Brenhill team, Brenhill's architect has revised the design to incorporate 162 units into the Non-Market Housing Project. To enhance long term operational and financial viability and address specific housing needs in the neighborhood, a decision was reached by the Society and staff to convert some of the studio spaces envisaged in the earlier design to larger one bedroom units to better accommodate couples and single parent families while enhancing tenant stability as rental of studio units tend to have shorter tenure and higher turnover.

Should Council approve the recommended 162 units in the Non-Market Housing Project, it would mean accepting a slight reduction from the 172 units previously targeted in the October 2012 report. The net increase of new social housing units (after factoring the 87 replacement units for Jubilee House) that the City has leveraged out in this innovative development model would be 75 additional units. Accordingly, the recommended suite breakdown would be 112 studio units, 4 senior studio units, and 46 1-bedroom units.

### ***Operating Model & Tenant Mix***

The operating model proposes that the management of all tenants in the Non-Market Housing Project, including both relocated Jubilee House residents as well as new tenants, be consolidated under the Society's Operating Agreement with the following tenant mix:

	Shelter Rate	Low-End of Market	Total
<b>Studio &amp; Senior. Studio</b>	<b>82</b>	<b>34</b>	<b>116</b>
<b>1-Bedroom</b>	<b>5</b>	<b>41</b>	<b>46</b>
<b>Total Unit Count</b>	<b>87</b>	<b>75</b>	<b>162</b>
<b>Average Rent/Month</b>	<b>\$436</b>	<b>\$1,142</b>	<b>\$763</b>
<b>(%)</b>	<b>53%</b>	<b>47%</b>	<b>100%</b>

The proposed tenant mix will ensure preservation of housing for the existing 87 Jubilee residents who receive shelter assistance, old age Security or other fixed-income while dedicating all additional 75 units to serve clients at low-end-of-market (LEM) rates to achieve financial sustainability. As operating surpluses become available after financing obligations are repaid, there will be opportunities to enhance overall tenant mix over time to include more affordable non-market units (rent geared to income) and/or further invest in other social housing projects in Vancouver.

#### *Mortgage Financing & New Lease Agreement*

Pursuant to the October 31, 2012 Council meeting, Council instructed the Director of Finance to recommend a prepaid lease amount that would be supportable by the non-market housing operation based on the final unit count and tenant mix, while achieving long-term operational viability and financial sustainability over the term of the lease.

There are two existing mortgages registered against the Society's leasehold interest on the City Lands in favour of CMHC that would take a priority position over any new financing. The existing first mortgage was registered on September 30, 1985 and subsequently assigned to CMHC. The second mortgage was registered to CMHC on October 26, 1998 (charge number BM295775). As at March 1, 2013, the first mortgage had an outstanding balance of approximately \$1,375,000 (including accrued interest), while the second mortgage, required for an emergency workout for roof and structural repairs, has an outstanding balance of approximately \$1,600,000 (including accrued interest).

Given the significant financial benefits that will accrue to BC Housing primarily through avoidance of deferred maintenance and future capital rehabilitation costs, BC Housing and CMHC (Ottawa office) have committed to an absolute discharge of the second CMHC mortgage in the amount of \$1.6 million and to continue providing non-market housing subsidies (~\$54,000 per annum) for the term of the existing CMHC first Mortgage. This agreement is an express acknowledgement of the innovative and creative public partnership between BC Housing and the City. Subject to BC Housing and CMHC's agreement, the City would permit the remaining first mortgage to be ported over to the Brenhill Lands to be secured against the new leasehold interest of the Society in the Brenhill Lands and the Non-Market Housing Project, to be registered in priority to the new Mortgage.

With the proposed tenant mix of 53% who receive shelter assistance, old age security or other fixed-income and 47% at lower end of market rate, a phased prepaid lease of approximately \$9.9 million, of which approximately \$8.1 million is payable within 12 months of final occupancy permit issuance and an additional \$1.8 million is payable upon maturity of the first BCH/CMHC mortgage can be supported through mortgage financing (assuming 35-year amortization and financing rates of 4% for the first \$8.1 million of the Prepaid Rent and 6% for



the remaining \$1.8 million of the Prepaid Rent. The proceeds from the Prepaid Rent would be deposited into the City's Property Endowment Fund to offset the capital cost of the Non-Market Housing Project. As the market value of the new 60-year leasehold interest is estimated at \$28.6 million (75% of freehold value) net of the first outstanding CMHC mortgage of \$1.375 million, the recommended prepaid lease of \$9.9 million would constitute a grant valued at \$18.7 million and require eight affirmative votes of Council.

The Mortgage for the first payment of approximately \$8.1 million will be arranged as soon as feasible after the Society takes occupancy of the new Non-Market Housing Project and achieves a level of stabilized absorption of the units ("Stabilized Occupancy") as required by BC Housing/CMHC. The City and Society will make all reasonable efforts to ensure the new Mortgage and transfer of the existing CMHC mortgage will be completed within 12 months of the occupancy date.

It is proposed that the Brenhill Lands and the Non-Market Housing Project will be leased to the Society on similar basis as other affordable housing developed on City-owned land. The Lease Agreement will include the following terms and conditions:

- a term of 60 years with phased Prepaid Rent to the City of approximately \$9.9 million, which will be financed by BC Housing/CMHC or a commercial lender and secured by a Mortgage of the Society's leasehold interest;
- cross default provisions with the Operating Agreement to avoid conflicts between the requirements of the Lease and the Operating Agreements; and
- such other terms and conditions as may reasonably be requested by the City Manager, Managing Director of Social Development, the General Manager of Real Estate and Facilities Management, Director of Finance, and the Director of Legal Services.

With Council's approval, staff will also pursue further negotiations with BC Housing to provide low cost construction financing. Any potential savings will be retained by the City.

### *Operating Agreement*

The Operating Agreement will set out the terms and conditions under which the building will be operated by the Society. This agreement will generally include the following principal terms and conditions:

- An initial target of a 53% tenants receiving shelter assistance, old age security or other fixed-income and 47% tenants at LEM with provisions for enhancing overall tenant mix to include more affordable "shallow core" non-market units (rent geared to income) over time as operating surpluses are achieved;
- requirement for the operator to manage the tenancies and tenancy turnover to ensure City Council's affordability targets are met and sustained over the long-term;
- requirement for the operator to develop and report on annual operating and capital budgets and tenant mix, to collect revenue and pay expenses and to develop a system of record keeping as determined necessary by the City;
- a requirement for building and systems repair and maintenance plans, both preventive and long-term capital asset preservation and replacement;
- a requirement to carry out all maintenance and repairs in a manner acceptable to the City;

- requirements for appropriate capital maintenance and operating contingency reserves to be provided by the Society;
- requirements for appropriate property and liability insurance coverage;
- cross default provisions with the Lease Agreement;
- provisions that any operating surplus, as and when they are achieved, would be shared 50/50 between the City and Society and which surplus must be reinvested in social housing either within the Non-Market Housing Project, or elsewhere within the City of Vancouver;
- provisions regarding all other aspects of the operation and management of the facility, and performance of obligations under contracts by which the Society is bound; and
- such other terms and conditions as may reasonably be requested by the City Manager, Managing Director of Social Development, the General Manager of Real Estate and Facilities Management, Director of Finance, and the Director of Legal Services.

## **FINANCIAL IMPLICATIONS**

### **Capital Funding**

On October 31, 2012, Council was presented with the following project capital and funding strategy:

Project Capital Cost	
Land	\$8.4M
Construction	\$30.6M
Project Management & Contingency	\$1.0M
	\$40.0M
Funding Sources	
Proceeds from Sale of Existing Jubilee Site	\$15.0M
Anticipated CAC from Proposed Rezoning of Existing Jubilee Site	\$25.0M
	\$40.0M

The following assumptions are key to the proforma for the project:

- Brenhill will assume all financial risks associated with the construction of the Non-Market Housing Project at a maximum cost of \$31.6 million (excluding land)
- Any savings arising from lower than expected construction costs will be retained by the City
- As a condition precedent to the Development Agreement, Brenhill must tender the construction contracts to confirm that the final design and unit mix can be achieved within this funding envelope. (Early indication from the marketplace suggests that the proposed budget is sufficient.)
- Brenhill's application to rezone the existing Jubilee Site in February 2013 further confirms that the anticipated value of the CAC (\$25 million) is achievable upon successful enactment of the proposed rezoning.

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### *Prepaid Lease*

The City will lease the Brenhill Lands and the Non-Market Housing Project to the Society for 60 years in return for a prepayment on the lease of approximately \$9.9 million. The estimated market value of the lease is estimated at \$28.6M (this reflects the standard formula used for calculating the net present value of a 60 year ground leases to non-profit social housing operators: 75% of \$40 million project cost less outstanding mortgage - in this case \$1.375 million Mortgage transferred from the Jubilee project). Thus this arrangement represents a grant from the City valued at approximately \$18.7 million to the Society.

### *Operating Funding*

Consistent with Council policies on most non-market housing projects, the project is expected to be self-sustaining and does not require further operating subsidies, property tax exemptions, and/or financial guarantees from the City.

The Society and the City have agreed to an operating model and a tenant mix of 53% tenants receiving shelter assistance, old age security or other fixed-income and 47% LEM that optimizes long-term operational viability and financial sustainability of the Non-Market Housing Project while providing opportunities to advance Council's housing objectives in Vancouver. The proposed tenant mix will preserve housing affordability for all existing Jubilee tenants (87 units) at shelter rates while generating a prepaid lease of approximately \$9.9 million to offset overall City contribution to the project. Of the \$9.9 million prepaid lease, \$8.1 million will be paid within 12 months of occupancy and an additional \$1.8 million will be paid upon maturity of the remaining outstanding BC Housing/CMHC mortgage. Proceeds will be deposited in the Property Endowment Fund.

The City has also received written commitment from BC Housing that the existing second CMHC mortgage valued at \$1.6 million (principal + interest as of March 31, 2013) will be discharged, the existing housing subsidy of approximately \$54,000 will continue throughout the term of the existing CMHC Mortgage, and BC Housing will facilitate low cost financing for the new prepaid lease.

As operating surpluses become available after all mortgage financing obligations are repaid, there will be opportunities to enhance overall tenant mix to include "shallow core" non-market units (rent geared to income). Operating surpluses are generally shared 50/50 between the City and the Society after contributions to applicable reserves. The Society may use its portion to enhance affordability onsite or invest in other social housing projects in Vancouver.

### *PROJECT OVERSIGHT AND CONTROL*

Further to Council's direction on October 31, 2012, the City's Procurement Office, working with Facilities Planning & Development, have issued an RFP for project management oversight (the "Project Oversight Manager") of Brenhill's design and construction of the Non-Market Housing Project. The Project Oversight Manager will represent the City's interest in the project and Brenhill and the City will meet regularly to review project issues, schedules, and budgets as required. The Project Oversight Manager will also supervise building envelope testing, commissioning, and close-out, review detailed electrical/mechanical specifications, and attend for onsite pouring and installation of structural components and roof membranes.

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The Project Oversight Manager will attend the site to supervise these critical milestone events in the development schedule and as otherwise appropriate or necessary to protect the City's interests. A provision will also be established in the Development Agreement for the use of independent Quantity Surveyors and any construction cost savings arising from the construction cost estimates will be retained by the City.

It is important to note that Council, when considering this Report, is acting as owner of the City Lands and as proposed purchaser of the Brenhill Lands only and in order to ensure Council remains unfettered when considering any future rezoning or development permit as City regulator, RECOMMENDATION D has been included to provide: "that a Council decision to enter into the Lease Agreement, Operating Agreement, or Development Agreement with Brenhill, BC Housing and the Society will not in any way limit Council or the City and its officials, including the Approving Officer, in exercising their discretion with respect to any related rezoning, permitting, or subdivision of the City Lands or Brenhill Lands".

### *CONCLUSION*

Council direction to City staff to complete the negotiations with Brenhill, the Society, and BC Housing/CMHC to complete the Offer to Lease, Lease Agreement, Development Agreement, and Operating Agreement will further progress the Non-Market Housing Project and create 162 units of new social housing. Completion of these agreements will permit Brenhill to apply for rezoning of the City Lands that will directly support the goals and objectives of the City's Housing and Homelessness strategy. Council approval to proceed with Brenhill's development proposal would see 100% of the estimated \$25,000,000 public equity invested from the proposed rezoning, plus an additional \$6,600,000 in freed up land value, to be used in the creation of the City's long term non-market housing stock, including the delivery of 110 new secured market rental units. This non-market housing stock would not have been achieved until well after 2046, the current expiry date of the existing Jubilee House ground lease.

Although the subject of this report is a real estate transaction, the Offer to Lease, Lease Agreement, Development Agreement, and Operating Agreement will still be subject to a future Council rezoning. When considering this sole source negotiation with Brenhill and the Society, Council is not in any way limited, nor are the City and its officials, including the Approving Officer, limited, in exercising their regulatory discretion with respect to any related rezoning, permitting, or subdivision of either the City Lands or Brenhill Lands.

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Legal Description of the "City Lands"

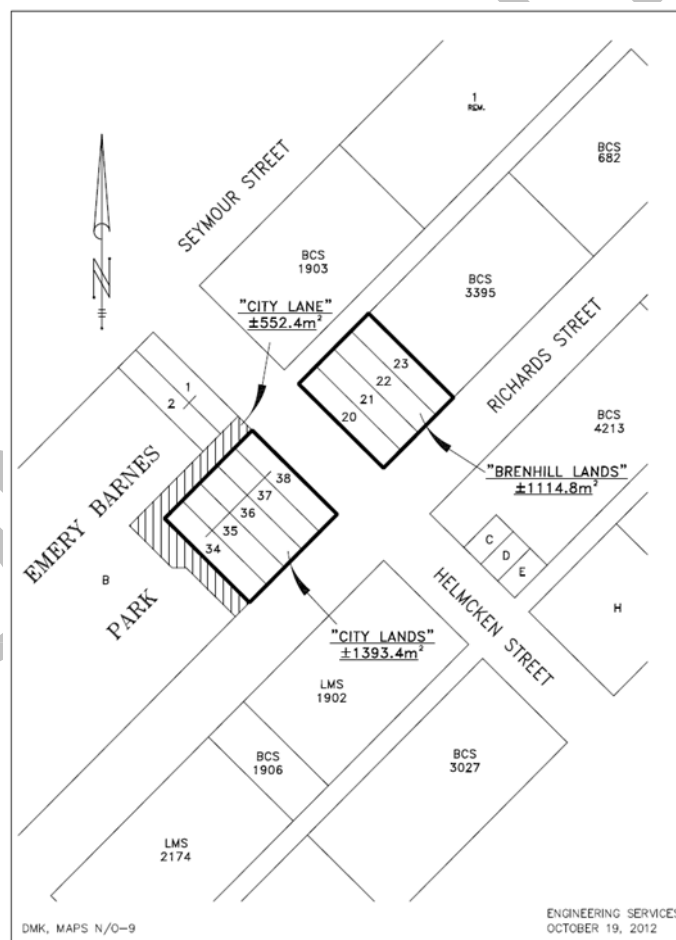
- Parcel Identifier: 015-482-073, Lot 34, Block 94, D.L. 541, Plan 210
- Parcel Identifier: 015-482-081, Lot 35, Block 94, D.L. 541, Plan 210
- Parcel Identifier: 015-482-138, Lot 36, Block 94, D.L. 541, Plan 210
- Parcel Identifier: 015-482-162, Lot 37, Block 94, D.L. 541, Plan 210
- Parcel Identifier: 015-482-260, Lot 38, Block 94, D.L. 541, Plan 210

Legal Description of the "Brenhill Lands"

- Parcel Identifier: 004-904-125, Lot 20, Block 84, D.L. 541, Plan 210
- Parcel Identifier: 015-485-811, Lot 21, Block 84, D.L. 541, Plan 210
- Parcel Identifier: 003-690-806, Lot 22, Block 84, D.L. 541, Plan 210
- Parcel Identifier: 006-706-673, Lot 23, Block 84, D.L. 541, Plan 210

Legal Description of the "City Lane"

- All that portion of lane East of Seymour Street, South from Helmcken Street; and South of Helmcken Street, West from Richards Street, shown hatched on Appendix A.



On April 18, 2012, staff presented Council with a project briefing on the proposed Brenhill land transaction and were directed to report back to Council with a revised deal structure that placed a stronger emphasis on achieving increased affordability options for the project.

On October 31, 2012, Council resolved:

- A. *THAT Council authorize the Director of Real Estate Services to negotiate a conditional lease surrender (the "Lease Surrender") with The 127 Society for Housing (the "Society") and Provincial Rental Housing Corporation ("BC Housing") for the City owned lands at 508 Helmcken Street, legally described as PID: 015-482-073, PID: 015-482-081, PID: 015-482-138, PID: 015-482-162 PID: 015-482-260 LOT 34 to LOT 38, all of BLOCK 94 DISTRICT LOT 541 PLAN 210 (the "City Property"), at no cost to the City;*
- B. *THAT, subject to obtaining the Lease Surrender in RECOMMENDATION A, Council authorize the Director of Real Estate Services to enter into exclusive negotiations with Brenhill Developments Limited ("Brenhill"), the owner of 1077-1099 Richards Street, legally described as PID: 004-904-125 PID: 015-485-811 PID: 003-690-806, PID: 006-706-673 LOT 20 to LOT 23, all of BLOCK 84 DISTRICT LOT 541 PLAN 210 (the "Brenhill Lands"), over the next 12 months to:*
  - (i) *negotiate the sale of the City Property to Brenhill, together with a portion of lane described in the attached Appendix A (the "City Lane"), and*
  - (ii) *negotiate the City's acquisition of the Brenhill Lands;*

*such negotiations to be based on the following terms and conditions:*

- (a) *the City to purchase the Brenhill Lands for a purchase price of \$8,400,000, plus closing costs and taxes;*
- (b) *the City to sell the City Property and City Lane (collectively the "City Lands") to Brenhill for a price of \$15,000,000, net of closing costs and taxes;*
- (c) *the City successfully negotiating the terms of a development agreement with Brenhill, BC Housing, and the Society (the "Development Agreement"), on terms subject to final Council approval, in which Brenhill agrees to build an anticipated 172 turnkey replacement units of non-market housing (herein the "Replacement Non-Market Housing Project"), such final unit count, tenant mix, and terms of the operating agreement to be approved by Council; such Replacement Non-Market Housing Project to be constructed on the Brenhill Lands, to be owned by the City of Vancouver at no development or construction cost risk to the City; and,*
- (d) *that the City's maximum contribution towards funding the Replacement Non-Market Housing Project will be the sum resulting from the difference in the purchase price amount for the Brenhill Lands and the sale price amount for the City Lands, being \$6,600,000, together with the CAC value of approximately \$25,000,000 from rezoning the City Lands, to be used to finance the construction costs for the Replacement Non-Market Housing Project on terms as further set out in this Report;*

- C. *THAT, if the Director of Real Estate Services can successfully conclude such negotiations with Brenhill, BC Housing, and the Society, Council authorize the Directors of Legal and Real Estate Services to enter into a legally binding Lease Surrender and Contracts of Purchase and Sale, such agreements being subject to the City Lands being rezoned;*
- D. *AND FURTHER THAT, if the Director of Real Estate Services can successfully conclude such negotiations with Brenhill, BC Housing, and the Society, Council authorize the Directors of Legal and Real Estate Services to enter into a legally binding Development Agreement, such agreement being subject to final City Council approval;*
- E. *THAT the closure and sale of the City Lane will be subject to the approval of the rezoning of the City Lands at public hearing and approval by Council to stop up, close and convey the lane to the abutting owners;*
- F. *THAT as part of the Development Agreement and rezoning process, Council authorize the Director of Real Estate Services to negotiate a requirement for Brenhill to provide a minimum of 110 units of new secured market rental housing, on the City Lands, to be owned by Brenhill, which market rental housing will be secured through the contemplated rezoning of the City Lands by a Housing Agreement entered into pursuant to section 565.2 of the Vancouver Charter, including covenants in favour of the City protecting this affordable rental housing stock for a minimum of 60 years or life of the building, whichever term is longer, and prohibiting subdivision by strata plan and separate sale of any of such units (the "City Housing Agreement");*
- G. *THAT as part of the Development Agreement, Council authorize the Directors of Legal and Real Estate Services to negotiate a new replacement lease with the Society and BC Housing for the Replacement Non-Market Housing Project, for a term of 60 years (the "Lease"), subject to Council approval. The Lease will require payment of property taxes in lieu unless the Replacement Non-Market Housing Project are classified by BC Assessment as a Class 3 supportive housing property;*
- H. *THAT Council authorize the Director of Finance and Managing Director of Social Development to prepare a strategy for optimizing the value of a prepaid lease to the Society to the extent that mortgage financing is supported by the housing operations over the long term, with a report back to Council with recommended prepaid lease options;*
- I. *THAT Council authorize the Director of Legal Services to negotiate with the Society and BC Housing, and Canada Mortgage and Housing Corporation ("CMHC") for the transfer of two existing mortgages registered against the Society's leasehold interest in the City Property in favour of CMHC under registration numbers #BK273470 and #BM295775 from the City Property to the Society's leasehold interest pursuant to Recommendation G, in the building to be constructed on the Brenhill Lands upon the City successfully becoming the registered owner of the Brenhill Lands;*

- J. *THAT Council accept a voluntary contribution from Brenhill to the City's Affordable Housing Fund in the amount of \$1,000,000, payable to the City at the time of successful enactment of the rezoning of the City Lands;*
- K. *THAT Council authorize the creation of a 2013-2015 project management budget of \$1,000,000 (the "Project Management Budget") to be used to fund City project management services, expert consultants, Quantity Survey expenses, as well as to reimburse the Society for City approved legal fees, independent technical expert expenses, Jubilee tenant relocation costs, Land Title registration fees, overhead and administration expenses and related consulting costs as set out in this report; source of funds to be the Brenhill contribution to the City's Affordable Housing Fund as set out in Recommendation J;*
- L. *THAT a Council decision to enter into a Development Agreement with Brenhill, BC Housing and the Society or Contracts of Purchase and Sale with Brenhill will not in any way limit Council or the City and its officials, including the Approving Officer, in exercising their discretion with respect to any related rezoning, permitting, or subdivision of the City Lands or Brenhill Lands;*
- M. *THAT no legal rights or obligations will arise or be created between Brenhill and the City unless and until a legally binding Development Agreement, Contracts of Purchase and Sale, Lease Surrender, and Lease are successfully negotiated and executed and delivered by Brenhill and the City through its authorized signatories, the Director of Legal Services and the Director of Real Estate Services; and,*
- N. *AND FURTHER THAT, if the Director of Real Estate Services is at any time during the 12 month negotiation period of the view that terms cannot be successfully concluded with the Society, BC Housing, CMHC, and/or Brenhill, the City Manager and Director of Real Estate Services report back to Council for further direction.*