



# RR-1

## ADMINISTRATIVE REPORT

Report Date: May 1, 2013  
Contact: Jim de Hoop  
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RTS No.: 10101  
VanRIMS No.: 08-2000-20  
Meeting Date: May 15, 2013

TO: Vancouver City Council

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

SUBJECT: Agreements with the Community Housing Land Trust Foundation to Deliver Affordable Rental Housing on City-Owned Land.

### **RECOMMENDATION**

- A. THAT Council authorize the execution of a Development Agreement, Lease Agreement, and Operating Agreement and other required legal agreements on the terms set out in the Memorandum of Understanding ("MOU") attached as Appendix "A" recently executed by the City Manager and the Community Housing Land Trust Foundation ("Land Trust") granting a lease of the four sites (as defined and legally described in Appendix "B") to the Land Trust for 99 years at nominal rent (representing a grant of approximately \$22 million), and otherwise on terms satisfactory to the City's General Manager of Community Services, Director of Legal Services, Director of Finance, and General Manager of Real Estate and Facilities Management.

*Recommendation A represents a grant and requires eight affirmative votes.*

- B. THAT the Development Agreement be executed (and the form of Lease Agreement and Operating Agreement be agreed upon) within 180 days of the date of this report, or such later date as may be approved by the City Manager.
- C. THAT the City's Director of Legal Services be authorized to sign the Development Agreement, Lease Agreement, Operating Agreement, and any other required legal agreements approved pursuant to Recommendation A on behalf of the City.
- D. THAT no legal rights or obligations shall arise or be created by Council's approval of Recommendations A or C, unless and until and then only to the extent that each applicable legal agreement is executed and delivered by both the City and Land Trust.

- E. THAT Council approve an expenditure of up to \$100,000 for costs associated with the removal of hazardous materials from the buildings on the Sites, source of funding to be a reallocation from the 2013 Capital Budget for Environmental Assessment/Soil Remediation no longer required for the 12 Affordable Housing Sites.
- F. THAT Council approve an expenditure of up to \$500,000 for costs associated with soil remediation of the Sites, source of funds to be the Property Endowment Fund (“PEF”).
- G. THAT, Council authorize the transfer of \$19,771,000 to the PEF as compensation for its proportionate share of the freehold fair market value of the 4 Sites to be granted to the Land Trust pursuant to Recommendation A, sources of funding to be: 2012-14 Capital Plan for New Non-Market Rental Housing: Land Acquisition - \$13,000,000 City-wide DCL and \$6,771,000 Area Specific DCLs to be added to the 2013 Capital Budget.

### **REPORT SUMMARY**

The creation of secure, affordable rental housing is a priority of Council in meeting the needs of Vancouver residents. This report recommends leasing City land at a below market value to the non-profit sector as an innovative method to create new affordable rental housing stock. In August 2012, the City implemented this approach by offering six pieces of City-owned land through a Request for Expressions of Interest (RFEOI - PS20120780) process. The procurement process utilized by the City allowed for direct negotiation with a proponent following the evaluation of all proposals.

A consortium of non-profit partners led by the Land Trust made, by a significant margin, the most comprehensive and outcome based submission. The submission involved utilizing four of the six offered sites to create a target of 355 (but not less than 350) net new social housing units. The Land Trust’s submission brought equity, longstanding experience and had exceptional merit in relation to the other submissions in meeting the targets of sustained and protected affordable housing. Staff brought an overview of the results of the RFEOI process to Council in camera on November 28, 2012 and received permission to proceed with direct negotiations with the Land Trust.

Staff completed the negotiations, as well as further financial and legal assessment of the submission. Following Council’s approval of same (in camera) on April 9, 2013, the City executed the MOU which outlines the high level principles on which the City and the Land Trust could proceed with the negotiation of the terms of a Development Agreement, Lease Agreement and Operating Agreement (the “Agreements”). The purpose of this report is to recommend that Council authorize execution of the Agreements if, within 180 days of the date of this report, the conditions of approval set out in the above Recommendations can be satisfied.

## **COUNCIL AUTHORITY/PREVIOUS DECISIONS**

### ***Affordable Rental Housing***

It is Council policy to provide City-owned sites for non-market housing projects and lease them to non-profit societies or co-operative associations. The intent of this policy is to maintain and expand housing opportunities for low and modest-income households with priority for families with children, seniors on fixed incomes or in need of support, SRO residents, the mentally ill, physically disabled, and others at-risk of homelessness.

In January 2010, Council identified ending street homelessness in Vancouver by 2015 as a key priority and directed staff to develop pragmatic options to achieve this goal. In February 2011, Council reconfirmed its priority to end street homelessness in Vancouver through the *Housing and Homelessness Strategy*, which intends to provide more affordable housing choices for all Vancouverites. This includes housing that is accessible, affordable and suitable for all income levels along the housing continuum including affordable rental.

In December 2011, Council established the *Mayor's Task Force on Housing Affordability*, which was to provide recommendations to Mayor and Council for priority actions that may be taken by the City to create low-income housing, affordable rental housing, and affordable home ownership. One of the recommendations from this report is the use of City land for affordable rental housing.

In August, 2012, Council authorized the issuance of the *More Homes, More Affordability* RFEOI PS20120780. On November 28, 2012, Council authorized staff to negotiate an MOU with the Land Trust based on the Land Trust's submission to the *More Homes, More Affordability* RFEOI and on April 9, 2013 Council authorized the execution of the MOU.

## **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 multi-pronged 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 leverage City land to attain a target of 355 of sustained, protected affordable rental housing across several neighbourhoods in Vancouver. A number of strategies have been used to leverage these planned outcomes:

- The use of best practice procurement methodology to stimulate competitive and diverse proposals;
- The bundling of the offered City lands to achieve economies of scale by the Land Trust through development, construction and operation to increase affordability;
- The encouragement of consortia to bring proposals which leverage equity, experience, innovative financing, and long term commitment to affordability;
- The use of the MOU and proposed legal agreements to establish clear expectations of the distribution of affordability and the format of units to respond to the needs of Vancouver residents requiring affordable housing.

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.

In summary, the absence of a national housing strategy, the lack of government funded housing programs and the constrained resources at the provincial level require the City to find new and creative ways to continue to meet our housing targets. The partnership with the Land Trust will significantly raise the bar for the City in terms of best business practices and strategy in leveraging City land, and for the housing and development sector in terms of innovation in their partnerships and their commitment to optimize value for money in the provision of sustained, protected affordable housing.

## **REPORT**

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

The creation of secure, affordable rental housing is a priority to meet the needs of Vancouver residents. In the absence of senior government support, the City has found opportunities to realize this priority through creative means. The Mayor's Task Force on Housing Affordability recommended leasing City land at a below market value to the non-profit sector for new affordable housing stock. In August 2012, the City implemented this approach by offering six pieces of City owned land through a Request for Expressions of Interest (RFEOI - PS20120780) process.

In response to the RFEOI, 19 submissions were received. Five submissions did not meet the minimum requirement for demonstrating adequate affordability, building and project management experience, an eligible not-for-profit lessee, or the ability to build to the expected scale and timeline. The remaining 14 were evaluated with weighted criteria that included:

- affordability: depth and number of units, ability to protect and increase affordability over time, 3<sup>rd</sup> party equity investment;
- timing and delivery schedule;
- innovation in creating affordability;
- sound building and construction experience; and
- overall completeness.

The Land Trust delivered a submission utilizing four of the six RFEOI sites (as indicated in Figure 1: The Land Trust Proposal Site Context Map and defined and legally described in Appendix "B" as the "Four Sites") in an innovative portfolio approach which creates a target of 355 units of housing. The sites proposed by the Land Trust are: Sites 3, 4, 5, & 6 (each defined in this report as a "Site", and collectively as the "Four Sites" or "Sites"). The remaining two sites included in the RFEOI (Sites 1 & 2) are located in the East Fraserlands (EFL) Official Development Plan (ODP) and will be the subject of a similar innovative public process in the near future.

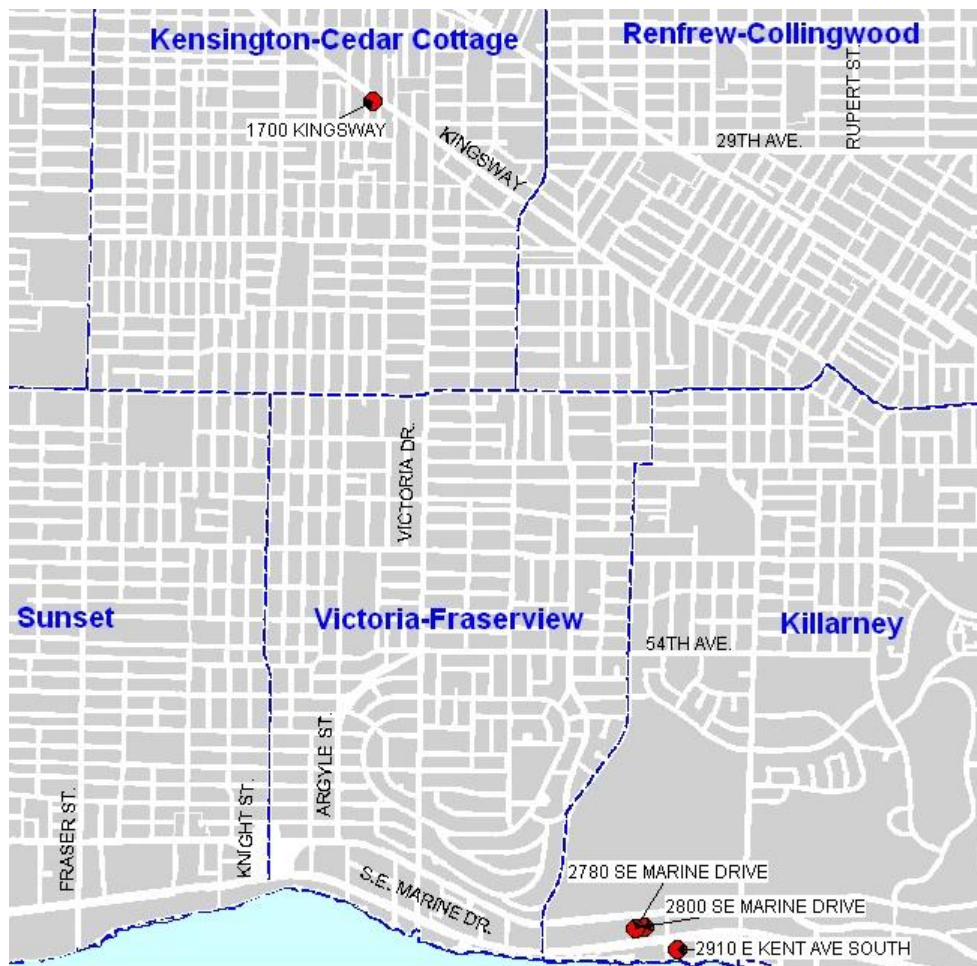


Figure 1: The Land Trust Proposal Site Context Map

The Land Trust is a non-profit charity qualifying as a grant recipient under the *Vancouver Charter*. The Land Trust was established by the Co-operative Housing Federation of BC to acquire, create and preserve affordable housing for future generations and to foster self-managed housing communities in BC. The Land Trust was incorporated in 1993 and has two decades of experience managing leases for properties located in Vancouver and across the province. It has significant experience negotiating complex land transactions and managing long term leases.

The Land Trust submission presented compelling merit in relation to other submissions. Particular strengths from the Land Trust proposal include:

- A portfolio approach that creates efficiencies in administration, design, construction and operation;
- The ability of the City to have a legal relationship with one party that simplifies the negotiation and creation of lease, development agreement terms and ongoing oversight and accountability;
- Savings in capital costs as a result of economies of scale in construction;
- A \$3.8M equity contribution from the not-for-profit partners; and,
- Their commitment to an internal subsidy model which redistributes rents across the portfolio to maximize and sustain affordability over the long-term.

## ***Legal Agreements***

The MOU states that the City will, pursuant to the Agreements, lease each of the Four Sites to the Land Trust for 99 years for a nominal prepaid rent. The Land Trust will then sub-lease the Sites to its experienced not-for profit operators for 99 years less a day. The operators are the Fraserview Housing Co-operative, Housing Foundation of BC (HFBC), Katherine Sanford Housing Society and Tikva Housing Society (collectively, the “Land Trust Partners”).

The key preliminary component of the Agreements is the Development Agreement. This agreement will set out the pre-conditions to the Project proceeding, such as the Land Trust obtaining the development and building approvals, the financing, the equity, and the fixed price construction contracts which ensure that the Land Trust is able to deliver that which it has targeted in its RFEOI submission. The Development Agreement will also confirm that the City is proceeding to remediate the Four Sites at its own cost and risk while the Land Trust is proceeding to prepare construction plans, apply for development permits, and secure financing at its own cost and risk. The intent of the Development Agreement is that neither party is liable for the other party’s costs in the event that all of the pre-conditions are not satisfied prior to (i) the 180 day deadline referenced in Recommendation B above as well as (ii) the commencement of construction.

The Development Agreement will attach as schedules the agreed upon form of Lease Agreement and Operating Agreement which the parties will be bound to sign as soon as the Project pre-conditions are satisfied.

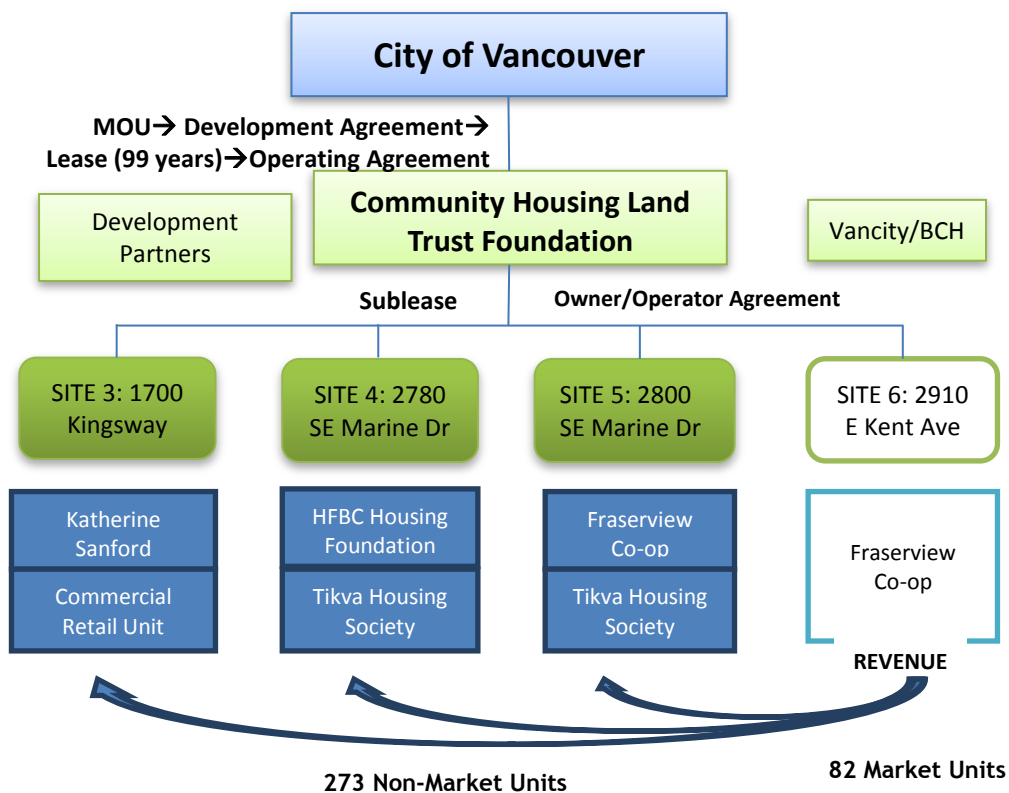
The Development Agreement will also require the Land Trust to provide a capital budget, indicative terms for construction and takeout financing and 20 year cash flow analysis to City staff for review at three key milestones: Development Permit application, Building Permit application and just prior to start of construction. If at any of these review points either party’s assessment of the costs and risks and the resulting affordability is unacceptable to them they will have the right to withdraw from the Project and the Lease and Operating Agreements would not be signed.

If and when the Project pre-conditions of the Development Agreement are satisfied, the parties will be bound to enter into the Lease and Operating Agreements. The Operating Agreement will set out the financial, affordability and reporting requirements for the affordable housing developed on the Sites. The Operating Agreement will legally confirm that the City will not provide any operating subsidies, property tax exemptions, and/or financial guarantees to the Land Trust and will allocate full responsibility for all costs and risks to the Land Trust. This reporting obligations will include the requirement to submit to the City, at start of each year, The Land Trust’s annual rent roll for the affordable rental housing developed on each of the Sites, the annual audited financial statements for the affordable rental housing projects developed on the Sites, and the operating budget for the upcoming year so that the City can monitor and ensure compliance with the required affordability levels. Reporting requirements will also include information to address the City’s Housing and Homelessness targets (i.e. number of households at social assistance levels and number of tenants who currently live [first priority] and/or work [second priority] in Vancouver). The Sub-Leases will require the Land Trust Partners to maintain and make available for inspection the information necessary for the Land Trust to fulfill its obligations to the City under the Operating Agreement.

### Governance and Partners

The Land Trust and the Land Trust Partners are working with professional partners experienced in real estate appraisal, design, development, financing and construction of housing projects. Those identified include Vancity, Social Purpose Development Partners Inc., Terra Housing, DYS Architecture, COHO Management Services, Performance Construction (pre-construction consultants) and Colliers. Selection of the construction contractor(s) for the Four Sites will be part of a future procurement process undertaken by the Land Trust and Land Trust Partners.

Figure 2 illustrates the governance relationship proposed by the Land Trust and Figure 3 outlines the number of units and the unit mix for each Site.



Note: Vancity confirmed as equity partner, BCH to be confirmed

Figure 2: Governance Model

There is a target of 355 net new units for those who currently live (first priority) and/or work (second priority) in Vancouver proposed by the Land Trust and their partners. Tenants will be identified through the Land Trust Partners in collaboration with other housing service providers and levels of government (BC Housing) to ensure that the needs of Vancouver residents are met.

Katherine Sanford Housing Society will operate approximately 48 one bedroom units of rental housing on Site Three primarily serving persons with a mental illness. Support services will be community-based support programs as tenants will be living independently. Site Three at 1700 Kingsway includes a Commercial Retail Unit (CRU). The CRU will be sub-leased for 99

years and the pre-paid rent for the CRU will provide additional capital funding for the housing portfolio and reduce the requirement for debt financing to increase housing affordability.

HFBC will operate approximately 114 one-bedroom apartment units on Site Four. The project will primarily serve singles and older couples in core need living in the south-east quadrant of the city.

Tikva will operate a non-profit rental housing townhouse project which will utilize the southern portion of both Sites Four and Five. Approximately 16 three-bedroom townhomes units will be developed on Site Four and about 16 three-bedroom townhomes on Site Five for a total of 32 units serving low-income family households.

The Fraserview Housing Co-operative will operate a non-profit housing co-operative on Site Five. It will consist of approximately 79 one, two and three bedroom apartment units primarily serving residents in core need.

Site Six, a waterfront site will also be operated by the Fraserview Housing Co-operative. The rents will be at market levels on the approximately 82, three bedroom units in order to generate revenue to increase affordability on the other sites in the portfolio.

|                        | Site Three        | Site Four | Site Five  | Site Four & Five | Site Six   |
|------------------------|-------------------|-----------|------------|------------------|------------|
| <b>Operator</b>        | Katherine Sanford | HFBC      | Fraserview | Tikva            | Fraserview |
| <b>Number of Units</b> | 48                | 114       | 79         | 32               | 82         |
| <b>Unit Mix</b>        | 1 BDRM            | 1 BDRM    | 1,2,3 BDRM | 3BDRM            | 3 BDRM     |

Figure 3: Housing Summary Chart

### **Strategic Analysis**

Affordable rental housing is an important part of Vancouver’s housing stock; low vacancy rates and relatively high rents have been characteristics of the City’s rental market with an estimate of 39% of renters paying more than 30% of their income on housing. The City has been working with a variety of government and non-government partners to optimize and expedite the creation of both permanent and immediate housing options to alleviate this problem.

The *Housing and Homelessness Strategy 2012-2021*, is the guiding document for addressing housing solutions in Vancouver. Of particular relevance for this program is the direction to increase the supply of affordable housing through the City’s use of land, capital grants, incentives and other resources to lever as well as to demonstrate leadership in supporting partnerships. The *More Homes, More Affordability* RFEOI targets the non-market rental housing point on the continuum by serving those who need below-market rental housing affordability.



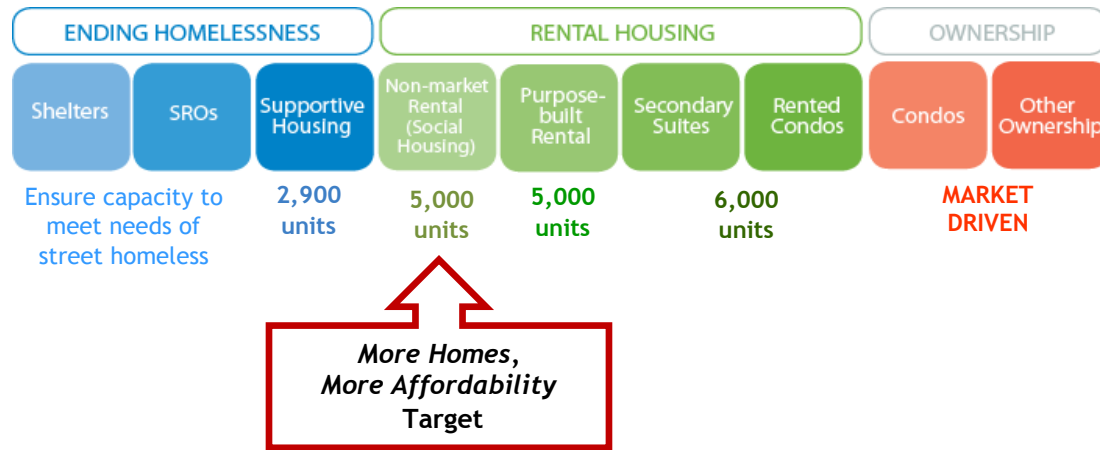


Figure 4: The Housing Continuum

A strong policy framework supports the use of City-owned land for affordable rental housing. The Mayor’s Task Force on Housing Affordability examined conditions that could act as barriers to housing affordability for low to moderate income earners. The Task Force’s Final Report recommends leveraging City-owned land with non-profit and private partners to create new rental stock at deeper levels of affordability.

A number of individuals and organizations have approached the City with proposals to pilot cost effective rental housing solutions on City owned lands while permanent stock is being constructed. Recognizing the uptake and success of the STIR/Rental 100 programs for secured market rental housing, it was realized that affordable rental options could likely be achieved with the contribution of City land at a below market lease rate enabling applicants to achieve lower than market rental rates with no additional capital cost to the City.

As such, key objectives of the Land Trust submission have been used on each of the Four Sites to create:

- five new housing projects adding a target of 355 units to serve Vancouver residents with a protected level of affordability;
- expedited delivery of units that recognizes the urgent need for new rental housing stock; and
- well-designed projects to enhance livability for tenants.

### ***Affordability***

The Land Trust is using several strategies to deliver on the affordability across the portfolio over the long term. An internal subsidy redistributes the operating income from the 82 units of market rental at Site Six (2910 E. Kent Avenue South) to the other three non-market rental properties. Together with the sale by sub-lease of the CRU unit, the equity contributed by the Land Trust Partners, as well as the nominal rent Lease from the City, the Land Trust is able to achieve significant affordability.

The affordability test for these projects employs the *BC Housing* Housing Income Limits (HILs) as a metric. Housing Income Limits are the income required to pay the average rent for an appropriately sized unit in the private market. Households earning below these limits are considered to be in core need. A commonly used measure suggests that a household should spend 30% of their gross household income on rent. Thirty percent of the Housing Income Limit is then used to calculate a monthly rent that is affordable and accessible to those in core need. For example, the Housing Income Limit for a one-bedroom unit is \$38,000. To

calculate an affordable rent based on this Housing Income Limit, we use 30% of income, and divide this by 12 to determine a monthly rent (\$38,000 \*30% = \$11,400/12 = \$950). A one-bedroom unit in the Land Trust portfolio should be less than \$950 per month to be considered affordable.

The chart below illustrates the Housing Income Limits and their associated affordable rent as well as the Land Trust’s average rent for each unit type.

| Unit Size     | Housing Income Limit | Maximum Affordable Rent | Land Trust Average Rent | % Below HILs* |
|---------------|----------------------|-------------------------|-------------------------|---------------|
| One Bedroom   | \$38,000             | \$950                   | \$769                   | 20%           |
| Two Bedroom   | \$46,500             | \$1162                  | \$945                   | 19%           |
| Three Bedroom | \$55,000             | \$1387                  | \$1038                  | 26%           |

Figure 5: Rental Affordability

*\*Note: Based on the Land Trust’s preliminary assumptions, this level of affordability can be achieved in year one. If other cost or market risks materialize, achievement of affordability may be delayed. Please refer to the financial implications section for further details.*

The Land Trust’s rental mix objective is to have as many units as affordable as possible without compromising the long-term financial sustainability of the portfolio. At this stage, rents are averages. Once the design work is done and project financials are established, the rental mix will be refined and will reflect rent variation within each type of unit and building.

### Approvals

Pursuant to the MOU, the City has consented to the Land Trust preparing and submitting, at its sole cost and risk, Development Permit Applications (DPA’s). The DPA’s will show the massing proposed for each Site, the location of the proposed building on each Site, parking access and layout, unit layouts, and elevations.

Once the City (in its regulatory capacity, not as a party to the MOU) has reviewed and conditionally approved the DPA’s, the Land Trust has indicated its intent to submit full design specifications for each Site, again at its sole cost and risk, the approval of which would allow the Land Trust to then apply for Building Permits.

It is not expected that a rezoning will be required for any of the Sites. However, in the event that one is, the rezoning applications will be made as soon as it is known that a rezoning is required.

The Land Trust acknowledges that all rezoning applications must be considered by City Council at a Public Hearing and that Council is free to approve or reject a rezoning application regardless of the executed MOU nor any executed Development Agreement. Should Council reject a rezoning application for any or all of the Sites, the Land Trust has indicated its intent to submit an amended DPA to develop such Site(s) under the current zoning.

The City and the Land Trust share the objective of creating new affordable housing units expeditiously, with construction targeted to start in March 2014. The projects will be occupied by approximately November 2015.

**Implications/Related Issues/Risk (if applicable)**

**Financial**

**Capital Funding**

|   |                  |                 |
|---|------------------|-----------------|
| City of Vancouver   |                  |                 |
| 99-Year Nominal Land Leases (95% of Freehold Value \$23.2M) |                  | \$22.0M         |
| Development Cost Levies Exemption                           |                  | <u>\$0.5M</u>   |
|   | <i>Sub-total</i> | \$22.5M         |
| Land Trust  |                  |                 |
| Equity  |                  | \$3.8M          |
| Proceeds from sale of CRU 99-year leasehold interest        |                  | \$6.3M          |
| Debt financing  |                  | <u>\$66.1M</u>  |
|   | <i>Sub-total</i> | \$76.2M         |
| <b>Total Project Capital</b>                                |                  | <b>\$98.7 M</b> |

In the opinion of the Director of Real Estate Services, a 99-year lease is equivalent to 95% of the freehold value. The City’s overall contribution, the grant of nominal land leases (\$22M) and DCL exemptions (\$0.5M), equates to approximately 23% of the overall project capital cost or \$63,000 per unit.

The Sites were originally acquired through a combination of PEF and Housing Capital funding. As such, the reimbursement to the PEF for its proportionate share in the freehold market value of the Sites is \$19.8M, to be funded from City Wide DCLs (\$13M) and Area Specific DCLs (\$6.8M) included in the 2012-2014 Capital Plan for new non-market rental housing: land acquisition, which will be added to the 2013 Capital Budget.

Expenditures for environmental clean-up of approximately \$600,000 are not included in the above land lease value. The City carries the obligation to provide a clean site. About \$100,000 of the cost related to hazardous building materials removal (expected to be spent in 2013) is to be funded through a reallocation from the unused 2013 Capital Budget for Environmental Assessment/Soil Remediation no longer required for the 12 Affordable Housing Sites. The balance of about \$500,000 for soils investigation and remediation will be funded from the PEF.

**Operating Funding**

The Land Trust will utilize an internal-subsidy model within the portfolio where the surplus generated from the market rental units will be used to subsidize the non-market rental units to achieve maximum and sustainable affordability over the long term. As noted above, the City will not provide any operating subsidies, property tax exemptions, and/or financial guarantees to any of the housing sites and one of the pre-conditions in the Development Agreement will be that the Land Trust obtains financing and equity that supports, verifies and funds its cross-subsidy model.

The Land Trust’s ability to achieve its affordability targets could be impacted by a number of key variables in both construction and operational phases.

- During construction - any increase in construction costs and reduction in CRU leasehold sales proceeds will increase the debt financing requirement. Coupled with higher than anticipated interest rates (upfront or upon refinancing), the debt servicing charges

could increase which will have a negative impact on overall affordability. To mitigate this risk, the Land Trust intends to obtain a fixed price construction contract and professional appraisal of CRU leasehold as part of the Project pre-conditions in the Development Agreement.

- During operation - lower than anticipated market rental revenues (key source of subsidy for non-market rental units) coupled with higher than anticipated operating costs will have a negative impact on overall affordability. To mitigate this risk, the Land Trust intends to obtain a professional market assessment to validate rent levels and operating costs as part of the Project pre-conditions in the Development Agreement.

The City's sensitivity analysis, factoring in the known risks to the Land Trust's model, indicates that the Land Trust's portfolio will be financially sustainable in the first year of operation, and the affordability target for non-market units can still be achieved within the first ten years with actual timing dependent on future market economics. Over time, as the mortgage is repaid, the portfolio will likely generate an increasing operating surplus which, after appropriate reserves are set aside, will be shared equally between the Land Trust and the City for further investments in affordable housing in Vancouver. This innovative approach leverages the initial investment from the City and the Land Trust Partners to be a self-sustaining affordable housing legacy.

### ***Environmental***

The City as owner of the Sites will be responsible for undertaking hazardous material assessments of the existing improvements to determine whether there are hazardous materials (e.g. asbestos), and for the costs of removal of hazardous materials. The City will also be responsible for the cost of remediating any contamination on the Sites as required by the approving authorities for the development of the Sites, as per the MOU.

The source of funds are identified as:

- the Property Endowment Fund to be responsible for costs of soil remediation as it holds the freehold title to the sites on behalf of the City; and,
- the 2013 Capital Budget - Housing to be responsible for removal of hazardous materials from the buildings.

### ***Legal***

As noted in the Recommendations and this report, all legal risks, rights, and obligations are to be settled with the Land Trust and then recorded in the Development Agreement, Lease Agreement, Operating Agreement, and any other legal agreements considered necessary by the City representatives referred to in Recommendations A and C.

### ***CONCLUSION***

The Land Trust submission is fully aligned with the objectives of the Housing and Homelessness Strategy and the Task Force's Final Report in leveraging City land to deliver a target of at least 355 (but not less than 350) net new units of rental housing. Of these new units, 273 are targeted significantly below market rates and are accessible to those in core need. The submission includes partners from the non-profit, co-operative and private sector to create secure, sustained, affordable rental housing legacy for those who currently live and work in Vancouver.

Memorandum of Understanding (MOU)  
between  
the Community Housing Land Trust Foundation (the Land Trust)  
and  
the City of Vancouver (the City)  
Regarding the Development of Affordable Rental Housing  
and dated for reference April 11, 2013

Intent

The parties wish to develop City-owned land to create net new affordable, rental housing to serve people who live (first priority) or work (second priority) in Vancouver. The City's intent is to grant long term ground leases for each Site at a nominal rate to stimulate the development process and create more affordable housing stock. The City issued a Request for Expressions of Interest (RFEOI) proposing ways to develop the Sites for affordable housing. The Land Trust has put forward a promising proposal to maximize the level of affordability across the Sites by using a mix of units and rents.

This MOU was included as an appendix to a report to City Council presenting the Land Trust's proposal for Council consideration. The parties acknowledge that City Council approval of the MOU is required for the City and the Land Trust to proceed to setting out the detailed legal terms and conditions of this arrangement necessary for the Land Trust to secure the funding required to develop the Sites.

Neither the discussions leading up to this MOU nor the approval of this MOU by City Council will create any legal rights or obligations, all of which will arise or be created only when City Council has approved the MOU and the subsequent legal documents have been fully executed on terms and conditions to the satisfaction of the City, the Land Trust and the Land Trust Partners.

The Land Trust acknowledges that Council has final approval of this MOU.

The Land Trust is solely responsible for any and all costs incurred by it in responding to the RFEOI and pursuing this MOU as well as negotiating the legal agreements following Council approval.

More Homes, More Affordability

In August 2012, the City issued a Request for Expressions of Interest (RFEOI) PS20120780, titled "More Homes, More Affordability" for the development of affordable rental housing on six sites owned by the City. On September 18, 2012, the Land Trust submitted a proposal (the Proposal) for the development of the four sites (each defined as a "Site", and collectively the "Sites") as follows:

| RFEOI Site Number | Address                   | Property Identification |
|-------------------|---------------------------|-------------------------|
| 3                 | 1700 Kingsway             | PID: 028-252-462        |
| 4                 | 2780 S.E. Marine Drive    | PID: 015-237-206        |
| 5                 | 2800 S.E. Marine Drive    | PID: 015-237-257        |
| 6                 | 2910 E. Kent Avenue South | PID: 023-668-270        |

On November 28, 2012, the City advised the Land Trust that the City wanted to pursue further due diligence with the Land Trust with the intent of negotiating the Development Agreement referred to below for the development of affordable rental housing on the Sites.

#### Land Trust and Land Trust Partners

The Land Trust is a non-profit charity qualifying as a grant recipient under the *Vancouver Charter*. The Land Trust was established by the Co-operative Housing Federation of BC to acquire, create and preserve affordable housing for future generations and to foster self-managed housing communities in BC. The Land Trust was incorporated in 1993 and has two decades of experience managing leases for six properties located in Vancouver and across the province. It has significant experience negotiating complex land transactions and managing long term leases.

The City will lease the Sites to the Land Trust who will sub-lease them to its partners for the development of a target of at least 355 units (but not less than 350 units) of affordable rental housing. The Land Trust will develop and construct the affordable rental housing which its partners will then operate on completion of construction. The Land Trust will oversee the operation of the affordable rental housing, ensure that it is being operated as required, and report to the City annually on the affordability being achieved.

The Land Trust has four partners (the “Land Trust Partners”). They are:

- Fraserview Housing Co-operative;
- HFBC Housing Foundation;
- Katherine Sanford Housing Society; and
- Tikva Housing Society.

The Land Trust and the Land Trust Partners are working with service providers experienced in the design, development, financing and construction of housing projects. Those identified include Vancity, Social Purpose Development Partners Inc., Terra Housing, DYS Architecture, COHO Management Services, Performance Construction and Colliers.

The Land Trust will place tenants who currently live (first priority) or work (second priority) in Vancouver in the new units. Any vacancies in the existing stock of the Land Trust and the Land Trust Partners that are created by tenants moving to the new units will also be filled by those in need who live or work in Vancouver.

### Leases

The City, as owner of the Sites, will lease each Site to the Land Trust for 99 years for a nominal prepaid rent (the “Leases”). Subject to the detailed terms of the Development Agreement, the Leases will commence concurrently with the start of construction or such other time as may be specified in the Development Agreement of each affordable rental housing project (the “Project”) on each Site.

The Lease for each Site will require the Land Trust to be responsible for all costs of developing the Sites, building the housing, servicing the Sites, and operating the affordable rental housing on completion. The Leases will be fully net, requiring the Land Trust to be responsible for all maintenance and repair (including capital replacement funds), utilities, insurance, property taxes and applicable fees.

### Operating Agreement

The Land Trust will enter an Operating Agreement with the City that will set out the details of the agreed day-to-day and long term operational requirements applicable for the Sites. This will include the affordability and reporting requirements for the affordable housing developed on the Sites, and the Land Trust’s financial and operational responsibility for the management and administration of the Sites.

### Sub-Leases

The Land Trust will sub-lease the Sites to the Land Trust Partners for 99 years less a day (the “Sub-Leases”). The rent for the Sub-Leases will be prepaid and nominal. The Sub-Lease term will commence the date immediately following the commencement of the Lease.

The Sub-Leases will be fully net with the Land Trust Partners responsible for all costs for managing and operating the affordable rental housing developed on the Sites, and for all maintenance and repair (including capital replacement funds), utilities, insurance, property taxes and applicable fees. However, the Land Trust will remain fully liable to the City under each Lease for all of these obligations regardless of any delay, default or dispute between the Land Trust and one of the Land Trust Partners.

### Financial Transparency

The Land Trust’s development and construction of the Sites as well as the Land Trust’s and Land Trust Partners’ management and operation of the housing will be fully transparent. Under the Development Agreement, the Land Trust will provide the City with budget updates at development permit application, excavation and building permit application, contract procurement stages and at other times reasonably requested by the City and similar reporting requirements will be incorporated into the Leases, the Operating Agreement, Sub-Leases and other agreements as applicable.

The City may have a Quantity Surveyor or other professional review budgets and cost estimates. Any costs incurred by the City for such third party consultants will be paid for by the City and will not be project costs.

### Demolition

The Land Trust will be responsible for demolishing and removing any existing improvements or structures including any hazardous materials in the buildings and any foundations located on the Sites. Costs for demolition of any improvements on the Sites and the removal of all debris will be the responsibility of the Land Trust, with the exception of any incremental costs for the removal of hazardous materials (which incremental costs will be the responsibility of the City).

### Hazardous Materials

The City will undertake hazardous material assessments of any buildings on the Sites prior to demolition to determine if there are any hazardous materials (e.g. asbestos) that need to be removed. The City will pay the costs to remove any hazardous materials.

The hazardous material assessment reports will be provided to the Land Trust and the recommendations incorporated into the competitively procured demolition contracts. All procurement and contract documentation for hazardous materials removal and demolition will be subject to the review and written approval of the City prior to issuance or execution. In the event that additional hazardous materials are discovered during demolition, the Land Trust will immediately notify the City of the nature and extent of the hazardous materials and work diligently with the City to agree on the scope of work and reasonable costs to remove the additional hazardous materials. In no event will the City be held liable for any delay claims or costs incurred of any nature whatsoever during the demolition of the buildings on a Site, including any delays resulting from the removal of hazardous materials.

### Contaminated Sites Remediation

The City as owner of the Sites will be responsible for the costs of remediating any contamination on the Sites as required by the approving authorities for the development of the Sites.

Upon the approval of this MOU by City Council, the City will retain consultants to undertake any required environmental assessments of the Sites. The City will be responsible for any contamination in existence prior to the commencement date of the Lease for each Site, and will pay the cost of any remediation required by the BC Ministry of Environment to obtain a Certificate of Compliance (noting that Certificates of Compliance have already been issued for the Sites at 2910 E. Kent Ave. S, 2780 S.E. Marine Drive, and 2800 S.E. Marine Drive) permitting residential land use.

For the Site at 1700 Kingsway (currently without a Certificate of Compliance), the City will be responsible for undertaking environmental investigations and any further investigations required by the approving authorities for the development of this Site (noting that a Stage 1 Environmental Site Assessment, Stage 2 Preliminary Site Investigation and Supplemental Stage 2 Environmental Site Investigations have been completed to date for this Site). The cost of remediating any pre-existing contamination found on the Site during excavation will be the responsibility of the City. The Land Trust and the City will work together to minimize the cost of remediating any contamination, including allowing on-site stockpiling, testing and sorting of excavated soils before removal, and also allowing on-site remediation if such on-



site remediation does not materially extend the development schedule. Where remediation is required, the environmental investigation reports will be incorporated into the excavation contracts. Where the approving authorities require the installation of engineered protection systems to obtain a Certificate of Compliance, the City will be responsible for the cost of these protection systems. The City will not be responsible for building design costs or other development costs, including delay claims and related costs, which any Site development project may incur as a result of the approving authorities requiring such remediation systems to be installed.

The Land Trust will be responsible for the cost of excavation and removal of soils and fill for the Sites. The City will only be responsible for the incremental costs of removing any contamination and disposing same at an authorized facility, as required by the BC Ministry of Environment. Prior to tendering of excavation contracts for the Sites requiring remediation, the tenders will be subject to the review and prior approval of the City, and the award of the excavation contract will also be subject to the review and prior approval of the City prior to issuance.

For the Sites with Certificate of Compliance already issued at this time, the Land Trust will be responsible for retaining environmental consultants to monitor the excavation required for these projects and to manage any contamination that may be found during excavation, as required by the conditions of the Certificates of Compliance. The cost of remediating any pre-existing contamination found on these Sites during excavation will be the responsibility of the City. The Land Trust and the City will work together to minimize the cost of remediating any soil contamination, including allowing on-site stockpiling, testing and sorting of excavated soils before removal, and also allowing on-site remediation if such on-site remediation does not materially extend the development schedule.

In no event will the City be responsible for any delay claims or unanticipated costs of any nature whatsoever during the development of a project on any of the Sites, including any delays or unanticipated costs which may occur during the remediation and removal of contaminants.

#### Environmental Reports

The City will provide copies of all Certificates of Compliance to the Land Trust. For the Site (1700 Kingsway) currently without a Certificate of Compliance, the City will, if required by the Land Trust, provide copies of all remediation and environmental assessment reports. Furthermore, the City will arrange for either the environmental consultants to provide reliance letters to be provided in the name of the Land Trust and the City, or to arrange for any future reports to be undertaken on behalf of the City and the Land Trust. Any costs associated with the consultants providing reliance letters will be the responsibility of the City.

However, in the event that the Land Trust requires an updated or additional environmental assessment report for some other purpose (e.g. financing), other than as required by the BC Ministry of Environment as approving authority for the development of the Sites, then that cost will be the responsibility of the Land Trust.

### Development and Operating Costs

The Land Trust and the Land Trust Partners will be responsible for all development costs, including increases as a result of regulatory approval, design and construction. The Land Trust and the Land Trust Partners will manage the development of the Projects so as to achieve the maximum level of affordability consistent with ongoing financial sustainability. There is no obligation for the City to provide any operating subsidy at any time under any circumstances.

### Reporting Requirements

The Operating Agreement will set out the affordability and reporting requirements for the affordable housing developed on the Sites. The Operating Agreement will require the Land Trust to make available for inspection by the City the annual rent roll for the affordable rental housing developed on each of the Sites, the annual audited financial statements for the affordable rental housing projects developed on the Sites, and the operating budget for the upcoming year. Reporting requirements will also include information to address the City's Housing and Homelessness targets (i.e. number of households at deep core need and number of citizens housed from Vancouver). The Sub-Leases will require the Land Trust Partners to maintain and make available for inspection the information necessary for the Land Trust to fulfill its obligations to the City under the Leases and the Operating Agreement.

### Affordability

Each Lease of a Site by the City will be at a nominal prepaid rent to allow the development of the Site for rental housing to be financially viable at the proposed gross rent. Going forward, the Land Trust will not increase the gross rents of the rental housing more quickly than comparable market rents are increasing, without the City's prior written consent.

The portfolio approach redistributes the operating income from the market rental property at Site Six (2910 E. Kent Avenue South) to the other three non-market rental properties to achieve an overall affordability target of 76% across the portfolio. Upon approval of this MOU by City Council, the Land Trust will retain consultants to undertake a market rent analysis for the entire portfolio (including a retail analysis for the Commercial Retail Unit on the Kingsway Site (Site 3), with the results to be provided to the City as part of the Development Permit Applications for each of the development projects on the Sites. Following occupancy annual audits will report on the target of 76% affordability across the portfolio.

The range of rents, from social assistance levels to market, will vary to address financial viability as well as specific needs in Vancouver. Currently, the proposal includes 82 units to be rented at market rates to create affordability.

Equity of approximately \$3.8 million will be invested by the Land Trust Partners as part of the equity portion of the total financing package. It is not a requirement that additional equity or grants will be made available to the Land Trust Partners from the Federal or the Provincial Governments or from the Land Trust or from any other source, including the City. However, if such grants are received, they must be used to increase project quality and affordability and will not be used to replace the equity investment from the Land Trust Partners.

With nominal land leases and DCL exemptions, it is anticipated that a positive cash flow will be generated in the first year of operations across the portfolio while achieving the stated affordability target, using the positive cash flow from the market rental property at Site Six (2910 E. Kent Avenue South) to cover the shortfalls on the other non-market rental projects. The ten year cash flow projection with key assumptions is attached as Appendix I.

Over time, the positive cash flow will increase, and all the projects will generate positive cash flows after the requisite cross-project transfers and contributions to capital replacement, operating contingency and other appropriate reserves. The net positive cash flow from the projects developed on the Sites will then be shared equally between the Land Trust and the City. The Land Trust will invest its share of the surplus in the development of affordable rental housing in the City of Vancouver, the purchase of market rental housing in the City of Vancouver and its conversion to non-profit operated affordable rental housing.

### The Projects

Each of the Sites will be developed with an affordable rental housing project (the “Projects”) and each of the Land Trust Partners will operate one or more Projects totalling a target of at least 355 units (but not less than 350 units).

Katherine Sanford Housing Society will operate approximately 48 one bedroom units of rental housing on Site Three primarily serving persons with a mental illness. Support services will be community-based as tenants will be living independently. Site Three also includes the zoning requirement for a commercial retail unit (CRU). The 99 year leasehold interest in the CRU will be monetized to provide capital funding for the housing portfolio and reduce the requirement for debt financing and increasing housing affordability.

HFBC will operate approximately 114 one-bedroom apartment units on Site Four. The project will primarily serve singles and older couples in core need living in the south-east quadrant of the city.

Tikva will operate a non-profit rental housing townhouse project on Sites Four and Five. Approximately 16 three-bedroom townhomes units will be developed on Site Four and about 16 three-bedroom townhomes on Site Five for a total of 32 units serving low-income family households.

The Fraserview Housing Co-operative will operate a non-profit housing co-operative on Site Five. It will consist of approximately 79 one, two and three bedroom apartment units primarily serving families in core need. Site Six, a waterfront site will also be operated by the Fraserview Housing Co-operative. The rents will be at full market levels on the approximately 82, three bedroom units in order to generate revenue to increase affordability on the other sites in the portfolio.

The draft Capital budgets for the development of the Projects are attached as Appendix II.

Figure 1 provides a summary of the projects.

|                     | Site Three        | Site Four | Site Five        | Site Four & Five | Site Six         |
|---------------------|-------------------|-----------|------------------|------------------|------------------|
| <b>Operator</b>     | Katherine Sanford | HFBC      | Fraserview Co-op | Tikva            | Fraserview Co-op |
| <b>Number Units</b> | 48                | 114       | 79               | 32               | 82               |
| <b>Unit Mix</b>     | 1 BDRM            | 1 BDRM/   | 1,2,3 BDRM       | 3BDRM            | 3 BDRM           |

Figure 1: Project Summary Chart

### Commercial Components

Only the Project developed on Site 3 will include a commercial component. The zoning for Site 3 allows and encourages retail on the ground floor of the Kingsway frontage. The Land Trust will develop the commercial component on Site 3, and upon completion of the Project, the commercial component will be sub-leased to an owner/operator of commercial space (the “Commercial Sub-Lease”). The proceeds from the Commercial Sub Lease will be invested in the affordable rental housing on the Sites.

### Parking

Parking is a major capital expense and the parking demand from the Projects, because they will be affordable rental housing, may be lower than what would normally be required by the Parking By-law. Upon approval of this MOU by City Council, the Land Trust will retain consultants to undertake an analysis of the parking needed for each of the Projects, with the results to be provided to the City as part of the Development Permit Applications for the Projects.

### Development Permit Applications

The Development Permit Applications (DPAs) will be submitted as soon after Council approval of this MOU as possible, the approval of which would allow Building Permits to be applied for and issued. The DPAs will show the finalized detailed design for each Project so that Development Permits can be issued.

### Rezoning

It is not expected that rezonings will be required for any of the Projects. However, in the event that one is, the rezoning applications will be made as soon as possible after Council has approved this MOU and as soon as it is known that a rezoning is required or desired to achieve this MOU’s objectives.

The Land Trust acknowledges that all rezoning applications must be considered by City Council at a Public Hearing and that Council is free to approve or reject a rezoning application regardless of Council having approved this MOU. Should Council reject a rezoning application for any or all of the Sites, the Land Trust will apply for a Development Permit to develop those Sites under the current zoning.

### Fast Track Approval Process

The City and the Land Trust share the objective of meeting the milestones set out in the Development Schedule below. To this end, the City will “fast-track” the review and approval process for the DPAs, rezoning applications (if any), Building Permits or any other approvals for the Projects. The City will assign the staff and resources to fast-track the Projects, and the Land Trust will respond as quickly as possible to any requests from City staff for additional information.

### Development Cost Charges/Levies

The Land Trust will pay Metro Vancouver’s portion of all applicable development cost charges. As per the DCL bylaw, all of the Sites qualify for an exemption.

### Construction of the Projects

The Land Trust and the Land Trust Partners are responsible for undertaking an open and competitive procurement methodology for selecting the contractor or contractors for the Projects.

In regard to the removal of contaminated soils and or hazardous materials, the City is paying the incremental costs; all contracts for hazardous materials removal and site remediation, including demolition and excavation contracts, will be openly and competitively procured and must be approved by the City prior to tendering, and prior to execution of contracts.

### Access and Existing Tenancies

Subject to existing tenancies, the City will grant licences as reasonably required in advance of execution of the Lease for each Site to allow surveys, inspections and demolition. Excavation or construction mobilization is expressly prohibited prior to execution of the Lease.

Three of the sites are vacant development sites. The fourth site (Site 3) located at 1700 Kingsway is an improved property with an existing commercial tenancy with a lease expiring at the end of 2014. The landlord may terminate the lease on twelve months prior notice. Following approval by City Council of this MOU, the City will give notice of termination of lease.

### Crane Overswing and Underpinning Agreements

The Projects will require agreements with neighbouring property owners to allow construction cranes to swing across property lines and to allow underpinning of shoring required for excavation. The Land Trust will be responsible for negotiating the agreements with neighbouring property owners and will have the required agreements in place by the time that the Building Permit is issued for each Project. The Land Trust will pay all costs associated with securing the agreements. The legal agreements for this will require the prior written approval of the City.

### LEED Compliance

If the Project requires the services of an environmental consultant for the purposes of LEED compliance, this will be a cost borne by the Land Trust.

### Legal Representation

All parties confirm that they will have legal representation throughout the implementation of this MOU. The Land Trust will represent the Land Trust Partners in developing the legal agreements required to implement this MOU. For certainty, the Land Trust will ensure that the Land Trust Partners will each have their own legal representation and the Land Trust will be responsible for coordinating the review and approvals of the legal documentation required by the Land Trust Partners.

### Exclusive Commitment

The Land Trust will have the exclusive right to work with the City on the development of the Sites for 6 months following Council approval of this MOU so as to allow the parties time to satisfy the conditions of execution of the Development Agreement, the Operating Agreement, Leases, Sub-Leases and other legal documents that will permit the Projects to proceed.

### Project Development Funding

The Land Trust and the Land Trust Partners are required to commit and expend project development funding to undertake the consultant studies, develop the designs for the Projects, and prepare the legal documentation required to implement this MOU and develop the Projects. The development program leading up to construction start is estimated to cost \$5,000,000. The Land Trust and the Land Trust Partners will implement the development program upon approval of this MOU by City Council but are aware that such funds are at the sole cost and risk of the Land Trust as set out in this MOU.

### Development Agreement

Within six months of Council Approval of this MOU, the City and the Land Trust will enter into a Development Agreement that will set out the finalized arrangements for the development, construction, and operation of the Projects. It will set out in detail the terms of the Operating Agreement, Leases and Sub-Leases, the Capital and Operating Budgets and any other issues that are identified during the six months of the exclusive commitment. All legal agreements that need to be registered against the Sites between the Land Trust and Land Trust Partners (such as for example the Sub-Leases) as well as between the Land Trust and other third parties (such as the crane and underpinning agreements and all contracts for hazardous materials removal and site remediation), require the prior written approval of the City. Where the Land Trust has lenders who require any form of priority and subordination agreement, these agreements will need to be approved by the City and included or referred to in the Development Agreement as well.

Development Schedule

|  |                |
|--|----------------|
| Report to Council                                    | April 9, 2013  |
| Execution of MOU                                     | April 11, 2013 |
| Finalization of Capital Budgets                      | May 2013       |
| Submission of Development Permit Applications (DPAs) | June 2013      |
| Execution of Development Agreement                   | July 2013      |
| Application of DPAs                                  | August 2013    |
| Report to Council for Final Approvals                | September 2013 |
| Approval of Building Permit Applications (BPAs)      | November 2013  |
| Start of Construction                                | March 2014     |
| Project Completion                                   | November 2015  |

The City, the Land Trust and the Land Trust Partners all understand that this MOU confers no legal rights or obligations. Legal rights or obligations will arise or be created only when City Council has given final approval for the aforementioned Development Agreement and other related legal documents and all such documents have been fully executed on terms and conditions to the satisfaction of the City's, the Land Trust's and the Land Trust Partners' solicitors.

For the Land Trust:

For the City:

\_\_\_\_\_  
Thom Armstrong  
Executive Director

\_\_\_\_\_  
Dr. Penny Ballem  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

SITE INFORMATION

**SITE THREE:**

Civic Address: 1700 Kingsway, Vancouver, BC

Legal: Parcel Identifier: 028-252-462

Lot E Blocks 7, 9 and 11 District Lot 352 Group 1 New  
Westminster District Plan BCP45184

**SITE FOUR:**

Civic Address: 2780 SE Marine Drive, Vancouver, BC

Legal: Parcel Identifier: 015-237-206

That part of the west ½ of Block 66 lying north of the  
Kent Street as shown on Explanatory Plan 3729 District  
lots 258 and 329 Plan 670A

**SITE FIVE:**

Civic Address: 2800 SE Marine Drive, Vancouver, BC

Legal: Parcel Identifier: 015-237-257

Lot A (Explanatory Plan 14490) east ½ of Block 66 District  
Lots 258 and 329 Plan 670A

**SITE SIX:**

Civic Address: 2910 East Kent Avenue South, Vancouver, BC

Legal: Parcel Identifier: 023-668-270

Lot 5 District Lots 258, 2100 and 6320 Group 1 New  
Westminster District Plan LMP31809