



ADMINISTRATIVE REPORT

Report Date: December 7, 2017
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Meeting Date: December 12, 2017

TO: Vancouver City Council

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

SUBJECT: 95 East 1st Avenue and 1847 Main Street - Social Housing Operator Selection and Lease Terms

RECOMMENDATION

- A. THAT Council approve the Community Land Trust Foundation of BC ("the Land Trust") as the selected non-profit partner to operate:
- i. the 135 unit social housing building located at 95 East 1st Avenue and legally described as PID: 029-631-785, Lot 355, Plan EPP426205, District Lot FC NWD Group 1 (the "Social Housing Building"); and
 - ii. the future Air Space Parcel containing 30 social housing units and artist production space at 1847 Main Street, currently legally described as PID: 030-275-768, Lot 1, Block 14, District Lot 200A Group 1 New Westminster, Plan EPP53535 (the "ASP").
- B. THAT Council authorize the General Manager of Real Estate and Facilities Management to negotiate and execute a lease with the Land Trust for 95 East 1st Avenue on terms and conditions outlined in this report including:
- a term of 60 years;
 - a lease payment of \$20.5 million to be paid to the City by the end of the first year of operation;
 - at least 10 of the social housing units in the Social Housing Building must be rented at Income Assistance rates to individuals who are participating in the "STEP" pilot program (typically at shelter rates); at least 54 units are to be at rents affordable to people who earn up to Housing Income Limits

("HILs") averaging approximately 70% of HILs (rent geared to 30% of income); and the remaining 71 units to be at Low End of Market ("LEM") rents;

- adherence to the respective Operating Agreement and Service Level Agreements;
- all revenues generated from the project to be reinvested to: i) fund the Operating Reserve, and/or ii) augment the Capital Replacement Reserve, and/or iii) maintain and enhance housing affordability throughout the life of the project, and/or iv) fund payment of identified capital maintenance or replacement costs, and/or v) create or acquire new affordable housing within the City of Vancouver;
- the operator to provide insurance required by the City of Vancouver; and
- a requirement to pay a proportionate share (to be negotiated and defined within the Reciprocal Easement and Indemnity Agreement) of maintenance and replacement costs for common aspects of the respective developments.

As the prepaid lease of \$20.5 million is below the applicable 60-year market lease rate of approximately \$53.8 million for the Social Housing Building, RECOMMENDATION B constitutes a grant valued at approximately \$33.3 million and approval requires eight affirmative votes of Council.

C. THAT Council authorize the General Manager of Real Estate and Facilities Management to negotiate and execute a lease for the Air Space Parcel (ASP) at 1847 Main Street on terms and conditions outlined in this report including:

- a term of 60 years;
- a nominal lease payment to be paid to the City by the end of the first year of operation;
- all 30 social housing units in the ASP for low-income artists are to be below HILs and rent geared to 30% of income. Rents are to range from the shelter component of Income Assistance to a maximum of the HILs thresholds, averaging approximately 70% of HILs;
- adherence to the respective Operating Agreement and Service Level Agreements;
- all revenues generated from the respective project to be reinvested to: i) fund the Operating Reserve, and/or ii) augment the Capital Replacement Reserve, and/or iii) maintain and enhance housing affordability throughout the life of the project, and/or iv) fund payment of identified capital maintenance or replacement costs, and/or v) create or acquire new affordable housing within the City of Vancouver;
- the operator to provide insurance required by the City of Vancouver; and
- a requirement to pay a proportionate share (to be negotiated and defined within the Reciprocal Easement and Indemnity Agreement) of maintenance and replacement costs for common aspects of the respective developments.

As the prepaid leases is a nominal amount, and is below the 60-year market lease rate of approximately \$11.8 million, RECOMMENDATION C constitutes a grant valued as approximately \$11.8 million and approval requires eight affirmative votes of Council.

- D. THAT Council authorize the General Manager of Community Services to negotiate and execute an Operating Agreement with the Land Trust for both 95 East 1st Avenue and 1847 Main Street on terms and conditions substantially as set out in the form of the Operating Agreement attached as Appendix A and otherwise approved by the General Manager of Community Services and the Director of Legal Services.
- E. THAT no legal rights or obligations shall arise or be created by Recommendations A through D unless and until all legal documentation has been executed and delivered by respective parties.

REPORT SUMMARY

This report seeks Council authorization to enter into a lease agreement with the Land Trust to operate the two social housing projects, the Social Housing Building at 95 East 1st Avenue and the ASP at 1847 Main Street, based on the lease terms outlined in this report.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Housing and Homelessness Strategy 2012-2021: In July 2011 Council approved the Housing and Homelessness Strategy 2012-2021 and 3-Year Action Plan (2012-2014) as a framework to respond to Council's priorities for addressing street homelessness and increasing the variety of affordable housing options within the city.

Housing Vancouver (2017): In November 2017 Council approved a new 10-year strategy known as 'Housing Vancouver' with the aim of improving housing affordability by creating the right supply of homes to meet the needs of the people who live and work in Vancouver. An 'Emerging Directions' report was presented to Council in spring 2017 outlining initial proposals and priority actions. A further update was provided to Council in July 2017 detailing proposed targets of 72,000 new homes in Vancouver over the next 10 years. Of the 72,000 new homes target, 12,000 units are targeted for social and supportive housing. This application will make a significant contribution towards the City's social and supportive housing target.

The Southeast False Creek Official Development Plan (SEFC ODP): The SEFC ODP envisions the transformation of underutilized industrial waterfront land into a high-density, predominantly residential neighbourhood, demonstrating the City's ability to move significantly towards more sustainable development practices. The SEFC ODP also sets out targets for housing on site with respect to: a) units affordable to households with incomes below the Housing Income Limits ("HILs"); b) modest market units; and c) family housing (two or more bedrooms).

95 East 1st Avenue (Social Housing Building): Southeast False Creek Parcel 3A/3B was rezoned in June 2014 to a CD-1 District of 58,020 square metres (624,525 sq. ft.) of residential development in five separate residential buildings. At the time of rezoning (2014) 1551 Quebec, 1600 Ontario and 95/99 East 1st were collectively discussed as

areas 3A and 3B of SEFC. The rezoning was approved in accordance with the Southeast False Creek Official Development Plan ("SEFC ODP"). Four of the five buildings developed under the rezoning are entirely market residential and one of the buildings on City owned lands at 95 East 1st Avenue is entirely social housing. This report relates only to the Social Housing Building. The building is 15 storey concrete building with a total of 135 units above two levels of underground parking. The building is under construction by Concert Properties Ltd. under a Development Agreement and will be turned over to City control upon completion. It is due to be complete and ready for occupancy in early January 2018.

1847 Main Street (ASP): This site was rezoned in November 2015 to a CD-1 District to allow for a 12-storey mixed-use building with 256 dwelling units of which 30 are secured social housing units for Vancouver based professional artists, with 372 m² (4,000 sq. ft.) of secured cultural amenity space for use as shared artist production space, a public plaza adjacent to the lane and retail uses at grade. The property is currently in the Development Permit application process and is due to complete in the winter of 2019. Create Properties Ltd. currently owns the property but will transfer ownership of the 30 social housing units and the shared artist production space to the City as an airspace parcel upon completion of the building.

Consistent with previous housing operator selection processes, operator selection and lease terms, including any pre-paid lease amounts, are brought to Council in a report for approval.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Community Services recommends APPROVAL of the foregoing recommendations.

REPORT

Background/Context

The 15-storey Social Housing Building located at 95 East 1st Avenue is a standalone site containing 135 units of social housing and associated amenity spaces, parking and storage. The building is being developed by Concert Properties on City owned property as part of a larger development at the eastern end of Southeast False Creek. The City secured the social housing in June 2014 in part as a result of a land transaction whereby Concert purchased a City property and in part as a contribution of the rezoning of the larger development. The project has been paid for with CAC money collected from Concert and from the CACs and DCLs collected from other development projects in and around the area. This building is currently under construction, with estimated completion and occupancy in early January 2018.

The ASP at 1847 Main Street contains 30 social housing units to be occupied by Vancouver-based professional artists and a shared cultural amenity space for use as artist production space. The ASP was secured as a CAC through the rezoning of the site in November 2015. The building contains a total of 256 units of which 30 are social

housing and includes a 372 m² (4,000 sq. ft.) artist production space suitable for visual and other types of artistic practice requiring Class B studio space. The property is currently in the Development Permit application process, and is expected to be ready to open in the winter of 2019.

Given the proximity of the two sites, the City sought a housing proponent to operate both.

RFP Process

In 2016 the City pre-qualified 12 non-profit housing operators through a Request for Qualifications No. PS20151802 "In Respect of a Pre-Qualifications Shortlist for Non-Profit Housing Operators".

In August 2017 the City issued an RFP directly to the twelve (12) shortlisted operators to operate the social housing units at both the 95 East 1st Avenue Social Housing Building and the 1847 Main Street ASP. The two projects were bundled together in one RFP to take advantage of the efficiencies that arise from a greater economy of scale and the proximity of the two sites.

The City received three RFP submissions from the following organizations:

- Community Land Trust Foundation of BC
- Bloom Group Community Services Society
- S.U.C.C.E.S.S. - Coast Mental Health Partnership

The responses were evaluated through the work of an evaluation team comprised of representatives from Affordable Housing Projects, Cultural Services, Long-term Financial Strategy & Planning, and Real Estate and Facilities Management, under the guidance of Supply Chain Management to ascertain if the responses offered good overall value to the City. Evaluation criteria included assessment of the proposal with respect to the rental housing program; the use of the artist production space; the staffing, capacity and property management models; affordability and financial information; and, strategic fit and innovation.

Based on the overall evaluation, the team concluded that the proposal submitted by Community Land Trust Foundation of BC best met the City's requirements and was identified as the recommended proponent for the two projects.

The Land Trust Background

The Land Trust is a non-profit society with a mission to acquire, create and preserve affordable housing with a focus on co-operative and non-profit housing targeting low and moderate income households. It was established in 2015, but is an offspring from the Co-operative Housing Federation of BC which has 35 years of experience in the non-profit housing sector. The Land Trust has a portfolio approach to deliver varying levels of affordability through cross site subsidies. It was the successful proponent to develop build, own and operate 358 housing units across four City of Vancouver leased land sites (in 2013).

Minimum Affordability Requirements

The minimum affordability requirements for the Social Housing Building at 95 East 1st Avenue are designed to meet the intent of the Southeast False Creek Official Development Plan (“SEFC ODP”). Through the RFP, the SEFC ODP requirements were enhanced to add ten units to the “below HILS” requirement that specifically targets individuals referred through the STEP pilot program. The STEP pilot program is a collaboration between Vancouver Coastal Health, BC Housing and the City of Vancouver, which is designed to support tenants in progressing across the housing continuum. The STEP program seeks to provide tenants the option to move to social housing which allows for vacancies in supportive housing buildings for applicants who require a high level of support.

The minimum affordability requirements for the Social Housing Building are:

- 10 units must be rented at Income Assistance rates to individuals who are participating in the STEP pilot program;
- 54 units must be rented at rent geared to 30% of income to people who earn up to HILs as defined by BC Housing, with rents ranging from Income Assistance rates to the maximum of HILs rates and averaging approximately 70% of HILs; and
- 71 units at Low End of Market (LEM) rents that must not exceed the benchmarks of 90% of appraised market rent and 30% of the BC Housing’s Moderate Income Limits.

The minimum affordability requirements for the social housing units at the 1847 Main Street ASP are for all 30 social housing units to be dedicated to low-income artists at below HILs rates, as defined by BC Housing and at rent geared to 30% of income. The rents would range from the shelter component of Income Assistance to a maximum of the HILs thresholds, with rents averaging approximately 70% of HILs.

The minimum affordability requirements outlined in the RFP for the two social housing projects are shown in Table 1 below:

Table 1: Affordability Requirements

	95 E 1st Avenue (Social Housing Building)	1847 Main Street (ASP)
Shelter Rate (STEP Program)	10 units	-
Housing Income Limits (HILs)	54 units	30 units
Low End of Market (LEM)	71 units	-
Target Tenants	Low and moderate income families with children, including two units for family child care	Vancouver-based, low-income Artists

The proposed rent structure for the social housing by unit type is shown in Table 2 below:

Table 2: Proposed Rent Structure for Social Housing as outlined in the RFP

Unit Type	Shelter Rate (2017)*	HILs Maximum Rents (2017)**	LEM Rents
Studio	\$375	\$1,000	LEM Rents to be confirmed through market appraisal.
1 Bedroom	\$375-570	\$1,125	
2 Bedroom	-	\$1,388	
3 Bedroom	-	-	

*Range - single or couple (see rate table at <http://www.mhr.gov.bc.ca/mhr/ia.htm>)

**Maximum Housing Income Limits HILS 2017 as per BC Housing: (http://www.bchousing.org/resources/HPK/Rent_Calculation/HILs.pdf)

Tenant Client Group

The City anticipates that a diverse mix of tenants will occupy the Social Housing Building, however, the priority will be housing low and moderate income households, emphasizing families with children. Ten of the units are to be rented to tenants referred through the STEP pilot program. The seven wheelchair accessible units are to be rented to households that include a person living with accessibility issues. The two family childcare suites are to be rented to an operator/tenant that will license the family childcare through Community Care Facilities Licensing.

The social housing units in the ASP are intended for Vancouver-based low-income professional artists. Professional artists are considered to be those having specialized training or records of accomplishment in their field(s) or who are recognized as artists by artistic peers and other arts professionals.

For the ASP, the RFP also identified a requirement for the successful proponent to partner with an established Vancouver-based arts and cultural non-profit organization for the operation and management of the shared artist production space at the property. This arts and cultural non-profit is expected to play a key role in both the tenant selection for the social housing and artist production space, as well as the programming of the artist production space located at the ASP.

Arts and Culture Partner for 1847 Main Street ASP

The Land Trust has partnered with BC Artscape as the operator of the 30 social housing units and production space for artists at the ASP. BC Artscape's mandate is to work closely with and support artists and by creating conditions for artists to thrive, through developing and operating cultural spaces. This project will enable BC Artscape to further support low-income artists requiring affordable housing and deliver secure, affordable production space to professional artists and cultural organizations.

Although BC Artscape will be the operator of the social housing ASP, the City's Lease Agreement and Operating Agreement will be with the Land Trust. The Land Trust's RFP proposal included BC Artscape as a partner. The evaluation of the proposal included consideration of the partnership between the Land Trust and BC Artscape. The City will

review the Operating Agreement between the Land Trust and BC Artscape to ensure it is consistent with the terms outlined in our Operating Agreement with the Land Trust.

Tenant Relocation Plan - First Right of Refusal for ASP at 1847 Main Street

The original building on this site contained 21 market rental units. The developer for this site provided a Tenant Relocation Plan. This Plan will be shared with the Land Trust which will be responsible for offering the first right of refusal in the new ASP to former tenants of the site, provided that they meet all eligibility criteria for both social housing and artist requirements. Those tenants that do not qualify to return to the social housing for artists in the ASP may be offered to move to housing units at the Social Housing Building (95 East 1st Avenue) or another housing site.

Lease Terms

It is expected that the Land Trust will enter into two separate leases with the City of Vancouver, for a lease payment of \$20.5 million on 95 East 1st Avenue to be paid to the City by the end of the first year of operation. A nominal lease payment will be made for 1847 Main Street. The lease payment for 95 East 1st Avenue will be equivalent to the amount of mortgage that the Land Trust can secure against their leasehold interest and is proportionate to the rental income of the property based on target affordability. The key components of the leases between the City and the Land Trust include:

- a term of 60 years;
- a lease payment of \$20.5 million for the 95 East 1st Avenue Social Housing Building and a nominal payment for 1847 Main Street ASP, to be paid to the City by the end of the first year of operation;
- for the Social Housing Building at 95 East 1st Avenue site, at least 10 of the social housing units must be rented at Income Assistance rates to individuals who are participating in the "STEP" pilot program (typically at shelter rates). Of the remaining social housing units, at least 54 are to be at rents affordable (rent geared to 30% of income) to people who earn up to Housing Income Limits ("HILs") and averaging 70% of HILs, and the remaining 71 units to be at Low End of Market ("LEM") rents;
- for the ASP at 1847 Main Street, all 30 social housing units for low-income artists are to be below HILs and rent geared to 30% of income. Rents are to range from the shelter component of Income Assistance to a maximum of the HILs thresholds, averaging approximately 70% of HILs;
- adherence to the Operating Agreement and Service Level Agreement;
- all revenues generated from the project to be reinvested to: i) fund the Operating Reserve, and/or ii) augment the Capital Replacement Reserve, and/or iii) maintain and enhance housing affordability throughout the life of the project, and/or iv) fund payment of identified capital maintenance or replacement costs, and/or v) create or acquire new affordable housing within the City of Vancouver;
- the operator to provide insurance required by the City of Vancouver; and
- a requirement to pay a proportionate share (to be negotiated and defined within the Reciprocal Easement and Indemnity Agreement) of maintenance and replacement costs for common aspects of the development.

As it is below the estimated value of the social housing building, a \$20.5 million lease constitutes a grant from the City and requires eight affirmative votes of Council. The Social Housing Building and ASP will be leased to the Land Trust in accordance with the standard terms and conditions for long-term leases of City-owned social housing.

It is further expected that the Land Trust will enter into an Operating Agreement with the City, generally in the form as attached in Appendix A, to manage and operate the two social housing projects. A Service Level Agreement (SLA) that outlines the responsibilities of the City, non-profit (housing) operator, and adjacent landlords (owners of Air Space Parcels) makes up part of this Operating Agreement. It is anticipated that the reporting requirements of the lease and Operating Agreement will be sufficient to provide oversight on the long-term operations and management of the building including the leverage to ensure deeper levels of affordability can be provided through reinvestment of any Operating Surplus into the building, in particular, should monthly operating costs be less than anticipated at present.

Key components of the Operating Agreement include Schedule C which outlines the monitoring and reporting requirements as well as Schedule B which outlines the financial requirements, including details of how the operating surplus may be used.

A regular monitoring and reporting schedule will be adhered to following building handover. Table 3 outlines the anticipated schedule of the reporting requirements for the building, further detailed in the Operating Agreement under Schedule C. Adherence to the schedule will allow the City to sufficiently monitor the building operations and be apprised of the building finances in order to discuss building surplus when available and explore opportunities to increase the percentage of HILs or shelter rate units in the building beyond the maximum required as per the terms of the Operating Agreement.

Table 3: Summary of Reporting Requirements as Stipulated in the Operating Agreement

Information Type	First Report Required	Reporting Frequency Thereafter	Description
Operating Budget	Initial operating budget to be agreed prior to lease commencement	Annual	Operating budget setting out the proposed budget for the upcoming year.
Independent Audit Report	At end of year 1	Annual	An audit firm carries out an assessment each year of tenant files, financial processes, account records and produces a financial statement report (including information on replacement reserve and operating balances)
Income Rent Information	At end of year 1	Annual	Rent roll, tenant income and vacancy information.
Operational Review	At end of year 1	Every 3 years	The operational review meeting will include a site visit with the City to review the general maintenance of the building and a discussion on performance in relation to the operating agreement.

Lifecycle Capital Maintenance Plan	The capital maintenance plan will be agreed within the first year of the lease term	Every 6 years (to coincide with every other Operational Review)	Capital maintenance plan to be updated every 6 years and reviewed as part of operational review.
Maintenance Plan	By end of year 1 - agree to maintenance plan with City	Every 3 years (to coincide with the Operational review)	Reviewed as part of operational review every 3 years.

Implications/Related Issues/Risk

Financial

Prepaid Lease

The typical operating model for social housing projects secured through development entails leasing City-owned ASPs and buildings to housing partners at below market rent for 60 years or longer, who will operate and maintain the housing project at a prescribed affordability over the lease term. The estimated market value of the Social Housing Building at 95 East 1st Avenue (i.e. assuming it is rented at full market rents) is approximately \$71.7 million; the resulting 60 year lease value (calculated at 75% of market value) will therefore be \$53.8 million. It is anticipated that the Land Trust will be making a prepaid lease payment of \$20.5 million to the City by the end of the first year of operation. The grant associated with the Social Housing Building 60-year lease to the Land Trust (the "Social Housing Building City Contribution") is therefore expected to be \$33.3 million.

The estimated market value of the ASP at 1847 Main Street is approximately \$15.7 million, inclusive of the at-grade cultural space (assuming the ASP is leased at full market residential and commercial rents). The resulting 60 year lease value (calculated at 75% of market value) is approximately \$11.8 million. It is anticipated that the Land Trust will be paying a nominal \$1.00 to lease the ASP due to the ASP's more restrictive rental covenants and accordingly, the value of the ASP 60-year lease (the "ASP City Contribution") is \$11.8 million.

Combined, the Social Housing Building City Contribution and ASP City Contribution totals approximately \$45.1 million and constitutes a grant, requiring eight affirmative votes of Council to approve.

Operating

Consistent with Council policies, all affordable housing projects are expected to be self-sustaining over the long-term where rents are set at levels that will cover mortgage payments (to finance the prepaid lease to the City), operating costs and capital replacement; and do not require further operating subsidies, property tax exemptions, and/or financial guarantees from the City.

The Land Trust's preliminary operating budget indicates that the operation of the social housing building will be financially sustainable while achieving the affordability target over the term of the project.

Additional discussion will take place between the City and the Land Trust to clarify the calculation and allocation of any operating surplus arising from the project such that all revenues generated from the project are required to be reinvested to: i) fund the Operating Reserve, and/or ii) augment the Capital Replacement Reserve, and/or iii) maintain and enhance housing affordability throughout the life of the project, and/or iv) fund payment of identified capital maintenance or replacement costs, and/or v) create or acquire new affordable housing within the City of Vancouver.

CONCLUSION

Having completed careful review of the three proposals, and detailed negotiations with the preferred operator, staff recommend the approval of the proposed lease terms and authorization to enter into a lease agreement with the Land Trust to operate the Social Housing Building at 95 East 1st Avenue and the ASP at 1847 Main Street.

* * * * *

OPERATING AGREEMENT

Among

COMMUNITY LAND TRUST FOUNDATION OF BC
(the "Operator")

and

CITY OF VANCOUVER
(the "City")

Regarding:

NON-MARKET HOUSING

located at 95 East 1st Avenue, Vancouver, B.C. and 1847 Main Street, Vancouver, B.C.

Effective as of the First Lease Commencement Date (as defined herein).

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AGREEMENT

PART 1 - SUMMARY

WHEREAS:

- A. The City is the owner of the Lands;
- B. The City sought proposals to operate the Buildings pursuant to RFP20171205 issued on _____ (the "RFP"); and
- C. The Operator submitted a proposal in response to the RFP and was duly selected by the City to operate the Buildings on the terms and conditions set out herein.

THE PARTIES AGREE AS FOLLOWS FOR THE TERM OF THIS AGREEMENT.

PART 2- SERVICE DESCRIPTION

- 1. The City and the Operator agree that the Operator will manage the day-to-day and long-term operations of the Lands and the Buildings, will preserve and protect the Lands and the Buildings, and will collect Operating Income and will pay Operating Expenses, all on the terms and conditions of this Agreement.
- 2. The City and the Operator agree that they will abide by the terms and conditions of the Leases.
- 3. The City and the Operator acknowledge and agree that the common goal of the parties is to provide safe, secure, well managed, financially feasible and fairly priced accommodation for qualified Occupants as set out in this Agreement.

PART 3- AGREEMENT

- 1. **Term.** The obligations of the Operator under this Agreement will commence on the First Lease Commencement Date and expire on the 60th anniversary of the Second Lease Commencement Date, unless the parties otherwise first agree in writing.
- 2. **Performance Standards.** The Operator will meet the Performance Standards in all material respects and will provide written reports on its achievement of the Performance Standards as required by this Agreement.
- 3. **Entire Agreement.** All of the Schedules described in the Table of Contents and attached to this Agreement are an integral part of this Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement. No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties.

IN WITNESS of which the duly authorized signatories of each of the Operator and the City have executed this Agreement effective as of the First Lease Commencement Date:

COMMUNITY LAND TRUST FOUNDATION OF BC
Per its authorized signatory

Signature

Date Signed

Print Name and Title

Signature

Date Signed

Print Name and Title

CITY OF VANCOUVER
Per its authorized signatory

Signature

Date Signed

Print Name and Title

SCHEDULE A - GENERAL PROVISIONS AND SCHEDULES

A. DEFINITIONS

Capitalized terms used in this Agreement have the meanings specified in this Clause A, unless otherwise provided in this Agreement:

1. "1st Avenue Lands" means the lands with a CIVIC address, as of the date of this Agreement, of 95 East 1st Avenue, Vancouver, B.C., legally known and described as:
Parcel Identifier Number: 029-631-785
LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP46205;
2. "1st Avenue Lease" means the lease agreement made between the Operator as lessee, and the City as lessor, of even date herewith, in respect of the 1st Avenue Lands;
3. "Assets" of an Occupant (where "Occupant" includes all persons for whom the Residential Unit serves as the principal residence) means all tangible personal and real property of a potential income earning nature, wherever located, and includes without limitation, accounts in banks, credit unions, trust companies, etc., stocks and bonds, real estate, equity in a business, registered retirement savings plans, and cash;
4. "Basic Rent" has the meaning ascribed to that term in the Lease;
5. "Buildings" means the multiple unit residential buildings and all other structures constructed on, and forming part of, the Lands during the Term, together with all alterations or repairs thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands;
6. "Capital Asset Plan" means a plan, to be prepared by the Operator (the cost of which shall be included in Operating Expenses), in form and contents to be pre-approved by the City, that sets out the maintenance, repair and replacement standards and practices required to preserve the capital components of the Lands and the Building over a sixty (60) year period, including, without limitation, in respect of the following:
 - a. major maintenance or replacement of the structure, including the roof, roof membrane, bearing walls, foundations and floors of the Building, and seismic upgrades;
 - b. major repair or replacement of the exterior of the Building;
 - c. life cycle replacement of the fire alarm and safety systems;
 - d. life cycle replacement of the heating, hot water, plumbing, mechanical, electrical, sanitary and storm drainage systems (building systems);
 - e. life cycle replacement of elevators; and
 - f. all equipment, materials and supplies required to perform any of the foregoing;
7. "Consumer Price Index" means the consumer price index published by Statistics Canada (or by a successor or other governmental agency, including a provincial agency, if Statistics Canada stops to publish such data), in respect of the historical cost of the construction of apartment buildings in the Vancouver metropolitan area, or if such consumer price index is no longer published, an index published in substitution for the consumer price index or a replacement index designated by the City, or if no comparative calculation can reasonably be made by reference to any such consumer price index, then by reference to such other analysis which, in the City's opinion, most accurately indicates the changes in the cost of the construction of apartment buildings in the Vancouver metropolitan area during the period in question;

8. "Declaration of Income and Assets" means the declaration to be completed by an Occupant as evidence of the Income and Assets of that Occupant as required for the Housing Charge assessment (see also Schedule F);
9. "Event of Default" has the meaning set out in this Schedule A, Clause I;
10. "Extraordinary Expense" means a significant, unexpected, unforeseeable and unbudgeted capital replacement or maintenance expense, as determined by the parties, each acting reasonably, which occurs prior to:
 - a. in respect of the Building situated on the 1st Avenue Lands, the 10th anniversary of the First Lease Commencement Date; and
 - b. in respect of the Building situated on the Main Street Lands, the 10th anniversary of the Second Lease Commencement Date;
11. "First Lease Commencement Date" means the date as of which this Agreement and the 1st Avenue Lease have both been executed by all parties to each thereof. Upon request of any party hereto, after the First Lease Commencement Date has been established, the parties hereto shall execute and deliver a memorandum confirming the actual calendar date of the First Lease Commencement Date;
12. "Fiscal Year" means the fiscal year of the Operator;
13. "HILs Unit" means a Residential Unit in respect of which a HILs Unit Housing Charge is payable;
14. "HILs Unit Housing Charge" means the Housing Charge to be charged by the Operator to a HILs Unit Occupant from time to time during the Term, which shall be no more per month than 1/40 HIL's Unit Occupant's Income;
15. "HILs Unit Occupant" means one or more cohabiting adults, with or without cohabiting children, whose collective Income does not exceed the housing income limits as set out in the then-current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or a successor or equivalent publication approved by the City;
16. "Housing Charge" means the charge, determined and assessed by the Operator from time to time, payable monthly by an Occupant pursuant to an Occupancy Agreement for the right to occupy a Residential Unit;
17. "Housing Registry" means the database with current application information as maintained by the Operator;
18. "Income" of an Occupant (where "Occupant" includes all persons for whom the Residential Unit serves as the principal residence) means the total annual world-wide income before income tax from all sources of the Occupant, calculated as of the date when the Occupant becomes a resident of the Building, and includes without limitation, the following income sources:
 - a. income assistance;
 - b. employment, including regular overtime, vacation pay and gratuities;
 - c. self-employment, including commission sales;
 - d. seasonal employment;
 - e. Employment Insurance and WorkSafe BC insurance;
 - f. training allowances;
 - g. income from the Resettlement Assistance Program;
 - h. child support, maintenance payments or support from family/ friends/community;
 - i. rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed Income from the Asset; and

- j. pension incomes including:
 - i. old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - ii. senior's supplement;
 - iii. private pension plans including Registered Retirement Income Funds;
 - iv. Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - v. War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - vi. foreign pensions,

but does not include:

- k. earnings of dependent children aged 18 and under (regardless of student status);
 - l. student loans, equalization payments, student grants and scholarships;
 - m. taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
 - n. Shelter Aid for Elderly Renters ("SAFER") and Rental Assistance Program ("RAP") payments;
 - o. Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
 - p. Universal Child Care Benefits;
 - q. BC Childcare Subsidy;
 - r. income from foster parenting;
 - s. Child in Home of Relative and Extended Family Program;
 - t. income from approved live-in care givers;
 - u. GST and Income Tax rebates; and
 - v. War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada.
19. **"Income Assistance"** means income received under the *Employment and Assistance Act* (British Columbia), the *Employment and Assistance for Persons with Disabilities Act* (British Columbia), or successor legislation;
20. **"Lands"** means the 1st Avenue Lands and the Main Street Lands;
21. **"Leases"** means the 1st Avenue Lease and the Main Street Lease;
22. **"Leasehold Mortgage"** means a mortgage of the Operator's interest (as lessee) in any Lands or Buildings pursuant to the Leases, and includes all financing agreements entered into by the Operator with the mortgagee(s) related thereto;
23. **"Loan"** means the loan(s) to be obtained by the Operator to finance the Basic Rent, which will be secured by a Leasehold Mortgage;
24. **"Low-End of Market Unit Occupant"** means one or more cohabiting adults (18 years of age or older) with or without cohabiting children, whose collective income does not exceed the low and moderate income limit as determined by BC Housing from time to time based on data provided by Statistics Canada. For 2017, this figure is \$69,360 for a residential unit with less and two bedrooms and \$99,910 for a residential unit with two or more bedrooms;
25. **"Low-End of Market Unit"** means a Residential Unit in respect of which a Low-End of Market Unit Housing Charge is payable;

26. "Low-End of Market Unit Housing Charge" means the Housing Charge to be charged by the Operator to a Low-End of Market Unit Occupant which shall not exceed 90% of the appraised market rent for a comparable unit in the local area and shall be no more than 30% of the low and moderate income limit as determined by BC Housing from time to time based on data provided by Statistics Canada;
27. "Main Street Lands" means the lands with a CIVIC address, as of the date of this Agreement, of 1847 Main Street, Vancouver, B.C., legally known and described as:
Parcel Identifier Number: 030-275-768
LOT 1 BLOCK 14 DISTRICT LOT 200A GROUP 1 NEW WESTMINSTER DISTRICT PLAN
EPP53535;
28. "Main Street Lease" means the lease agreement made between the Operator as lessee, and the City as lessor, of even date herewith, in respect of the Main Street Lands;
29. "Maintenance Plan" means a plan, to be prepared by the Operator (the cost of which shall be included in Operating Expenses), in form and contents to be pre- approved by the City, that sets out the maintenance, repair and replacement standards and practices and the estimated costs required to preserve the non-capital components of the Lands and the Buildings in the upcoming 36 month period;
30. "Occupancy Agreement" means an agreement, lease, license or other right of an Occupant to occupy a Residential Unit that complies with Schedule E;
31. "Occupancy Guidelines" means the guidelines for household sizes of an Occupant relative to the number of bedrooms in a Residential Unit. Unless otherwise agreed in writing by the City and the Occupant, the following guidelines apply:
- a. no more than two and no less than one person per bedroom;
 - b. spouses and couples may share a bedroom;
 - c. parents do not share a bedroom with their children;
 - d. dependents aged 18 or over do not share a bedroom; and
 - e. dependents of the opposite sex age five or over do not share a bedroom.
32. "Occupant" means the person or persons named in the Occupancy Agreement;
33. "Operating Budget" means the annual budget for the Lands and the Building prepared by the Operator in accordance with Schedule B, Clause A;
34. "Operating Expenses" means all sums, costs, expenses, outgoings and other amounts incurred by the Operator, other than Basic Rent (as defined in the Lease), payable in respect of the Lands and the Building, including, without limitation:
- a. the insurance required by the Lease;
 - b. sewer, water and garbage and recycling pickup
 - c. Utilities;
 - d. salaries and benefits paid to staff engaged in providing services to the Lands and the Building or an Occupant pursuant to this Agreement or the Lease;
 - e. contributions to the Operating Reserve and Replacement Reserve;
 - f. maintenance and repair of all non-capital items described in the Service Level Agreements;
 - g. Realty Taxes and amounts payable in lieu of Realty Taxes pursuant to the Lease;
 - h. principal, interest and fees payable pursuant to the Mortgage;
 - i. amounts payable by the Lessee under Permitted Encumbrances (each as defined in the Lease);
 - j. administration costs, excluding Operator management fees, but including accounting and

- legal fees;
 - k. all equipment, materials and supplies required to perform any of the foregoing;
 - l. rent-up costs;
 - m. the cost of fulfilling the City's requirements for budgets, reports, audits, and plan preparation (including without limitation the cost incurred by the Operator to prepare the Operating Budget, the Maintenance Plan, the Capital Asset Plan and the Replacement Reserve Study), for data and research, and other special requests made by the City; and
 - n. management fees of the Operator of ___% per Fiscal Year of the foregoing Operating Expenses, excluding items e, g and h.
35. **"Operating Income"** means all gross income, revenue, sums and other amounts, directly or indirectly, collected by or credited to the Operator pursuant to this Agreement or the Lease (other than pursuant to the Mortgage), including, without limitation, Housing Charges, Utilities, parking fees, vending machine revenue, laundry machine revenue and other fees and charges payable by Occupants or others for use of the Lands and the Building;
36. **"Operating Reserve"** means a reserve to be established, funded from the Operating Surplus and managed by the Operator, in an amount equivalent to:
- a. in the first year of the Term, the annual Operating Budget for that year (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions); and
 - b. thereafter, the total Operating Expenses for the Fiscal Year most recently completed based on the Operator's audited financial statements (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions), as more particularly described in Schedule B, Clause B.2;
37. **"Operating Surplus"** means any surplus Operating Income remaining after payment of all Operating Expenses as more particularly described in Schedule B, Clause C;
38. **"Performance Standards"** means those required practices and standards of performance that the Operator must meet in all material respects in accordance with this Agreement (see also Schedule G);
39. **"Personnel"** of a party means the elected officials and directors, as applicable, officers, employees, servants and agents of that party;
40. **"Prime Rate"** means at any time, the per annum rate of interest published by the main branch in Vancouver, British Columbia of the Bank of Montreal, or its successor at such time, as its reference rate for setting rates of interest on loans of Canadian dollars to customers in Canada and referred to by such bank as its "prime rate", provided however that if such bank publishes more than one such reference rate at any time, the Prime Rate will be the highest thereof, and provided further that, if a court holds that this definition of Prime Rate is vague, uncertain or otherwise defective, then the Prime Rate will be three percent (3%) greater than the per annum rate of interest established by the Bank of Canada as the rate payable on overnight loans by Schedule I Canadian Chartered Banks;
41. **"Realty Taxes"** means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital District Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise, including by or for Translink, BC Assessment and Metro Vancouver) and all other charges for services used in or supplied to the Lands and the Building (including penalties and interest) that now are or will or may be levied, rated, charged or assessed against the Lands and the Buildings, and all other structures, machinery, equipment, facilities and other property of any nature whatsoever located thereon or therein, charged by any municipal, parliamentary, legislative, regional, school or other authority during the Term;

42. "Replacement Reserve" has the meaning ascribed to that term in Schedule B, Clause B.1;
43. "Replacement Reserve Study" means a study and analysis of the estimated costs needed to perform the repair or replacement of capital components of the Lands and the Buildings as and when needed, and the anticipated availability or shortfall of funding in the Replacement Reserve to cover such costs as and when anticipated to be incurred;
44. "Residential Unit" means a self-contained dwelling unit in a Building with its own kitchen, bathroom, and sleeping and living spaces;
45. "Second Lease Commencement Date" means the date as of which this Agreement and the Main Street Lease have both been executed by all parties to each thereof. Upon request of any party hereto, after the Second Lease Commencement Date has been established, the parties hereto shall execute and deliver a memorandum confirming the actual calendar date of the Second Lease Commencement Date;
46. "Shelter Rate Unit Occupant" means one or more cohabiting adults who is/are in receipt of Income Assistance;
47. "Shelter Rate Unit" means a Residential Unit in respect of which a Shelter Rate Unit Housing Charge is payable;
48. "Shelter Rate Unit Housing Charge" means the Housing Charge to be charged by the Operator to a Shelter Rate Unit Occupant from time to time during the Term, based on the Unit size and type, which as of the Lease Commencement Date are as set out in Schedule F, Clause 2, and which may be adjusted as contemplated by Schedule F, or otherwise by agreement of the parties hereto;
49. "Term" means the term of this Agreement, which commences on the Lease Commencement Date and ends on the 60 year anniversary of the Lease Commencement Date, or if this Agreement or the Lease terminates earlier, ends on such earlier date;
50. "Utilities" means all charges, rates and levies on account of utilities, including for heat, electricity, gas, telephone, television, internet and other costs and expenses of a similar nature, and, if not included in Realty Taxes, for water and garbage collection; and
51. "WorkSafeBC" means the Workers' Compensation Board of British Columbia, an agency created in 1917 to promote workplace safety, and is that agency's familiar name.

B. RESPONSIBILITIES OF THE OPERATOR

1. **Operator's Acknowledgements.** The Operator acknowledges that it is entering into this Agreement to manage and operate the Lands and the Buildings, that it will do so in a proper, efficient and timely manner as would a prudent owner/operator of similar property and that its purpose in managing and operating the Lands and the Building is to benefit the public interest.
2. **Corporate Organization.** The Operator will remain in good standing as a registered non-profit society and a registered charity under all applicable provincial and federal legislation, and, in particular, will:
 - a. conduct business in accordance with its constating documents and in a manner that does not permit personal gain, directly or indirectly, by any director, officer, member or employee of the Operator or any of their associates or family members; and
 - b. maintain accurate and complete records of all aspects of its operations under this Agreement.
3. **Leases.** The Operator acknowledges that its rights and obligations hereunder are subject to the Leases.
4. **Leasehold Mortgage.** The Operator will strictly comply with its obligations in the Leasehold

Mortgages and not effect or agree to any amendment of a Leasehold Mortgage without the prior written consent of the City.

5. **Operator Restrictions.** During the Term, the Operator will remain in good standing under all applicable legislation in British Columbia and Canada and will use substantially all its income, gains and accretions to promote its main purposes and activities.
6. **Restrictions on Authority.** The Operator must not commit or otherwise obligate the City in any manner whatsoever, except to the extent specifically provided in this Agreement or the Leases, or as specifically authorized in writing by the City and in particular, without limiting the generality of the foregoing, the Operator must not take any action, expend any sum, make any decision, give any consent, approval or authorization or incur any obligation which would commit or otherwise obligate the City with respect to any of the following matters except with the prior written approval of the City:
 - a. charging or allowing any encumbrance to charge title to all or any part of the Lands and the Buildings; and
 - b. executing any lease or any other arrangement involving the rental, use or occupancy of all or part of the Lands and the Buildings other than an Occupancy Agreement in accordance with this Agreement or as permitted in this Agreement or in the applicable Lease.

For greater certainty, the foregoing restriction does not prohibit the Operator from entering into any contracts or arrangements that do not commit or otherwise obligate the City.
7. **Agency.** This Agreement shall not be construed as creating any partnership or agency between the City and the Operator, and no party shall be deemed to be the legal representative of any other party for the purposes of this Agreement. Neither the City nor the Operator shall have, and shall not represent itself as having, any authority to act for or to undertake any obligation on behalf of any other party, except as expressly provided in this Agreement or the Leases.
8. **Use of Lands and the Buildings.** The Operator will not use the Lands and the Buildings for any purpose that is not authorized by this Agreement.
9. **Occasional Third Party Use.** The Operator may license portions of the Buildings to third parties in accordance with the Occasional Third Party Use Policy attached hereto as Schedule H. **[NOTE: Confirm that this provision applies to the Buildings]**
10. **Conflict of Interest.** The Operator will not perform a service for or provide advice to any person or entity where the performance of such service or the provisions of the advice may, in the reasonable opinion of the City, give rise to a conflict of interest between the obligations of the Operator to the City under this Agreement or the Leases, as applicable, and the obligations of the Operator to such other person or entity. In addition, the Operator covenants with the City that:
 - a. it will not pay directly or indirectly to any of its directors or their relatives by blood or marriage (including common-law marriage) any money obtained from the operation of the Lands and the Buildings, or from the operation of other premises leased from the City, or otherwise received from the City, without the express written consent of the City;
 - b. it will not, by contract or otherwise, pay to any of its former directors or their relatives by blood or marriage (including common-law marriage), pursuant to any contract or arrangement made when the former director was a director of the Operator, money obtained from the operation of the Lands and the Buildings, or from the operation of other premises leased from the City, or otherwise received from the City, without the express written consent of the City;
 - c. subject to sub-paragraphs (a) and (b) immediately above, the Operator may enter into bona fide arm's length contracts with occupants of the Lands and the Buildings for the provision of services in furtherance of the good management of the Lands and the Buildings; and
 - d. notwithstanding the foregoing, the Operator may reimburse its directors or occupants of the Lands and the Buildings for out-of-pocket expenses incurred for the proper management of the Lands and the Buildings but only upon the proof of such expenditure

- by the production of bona fide receipts.
11. **Constating Documents.** The Operator will not alter its constating documents in any way that would render the Operator unable to fulfill its obligations under this Agreement or the Leases, as applicable.
 12. **Management of the Lands and the Buildings.** The Operator will manage and operate the Lands and the Buildings in accordance with this Agreement and in a proper, efficient and timely manner as would a prudent owner/operator of similar property and will:
 - a. meet all statutory and corporate obligations applicable to the Operator in performing its obligations under this Agreement, including but not limited to, the requirements of the *Personal Information Protection Act*, *Freedom of Information and Protection of Privacy Act* (Canada), *Workers Compensation Act* (British Columbia), *Tobacco Control Act* (British Columbia), *Human Rights Code* (British Columbia), and associated regulations, and obligations under all contracts the Operator enters into in connection with the Lands and the Building and the requirements of any insurer of the Lands and the Buildings;
 - b. ensure that the Lands and the Buildings and the systems and equipment therein are managed and maintained in all material respects in accordance with all applicable statutory health and safety standards;
 - c. abide by the terms and conditions of all Schedules hereto;
 - d. require that employees and contractors who carry out repairs and maintenance on behalf of the Operator do so in compliance with all WorkSafeBC and other statutory requirements, acquiring environmental or other building assessments by accessing known inventories or through hazmat surveys prior to renovation/repair work;
 - e. conduct risk assessments prior to commencing work and make reasonable efforts to ensure that employees and/ or contractors follow safe work procedures which control any hazards to the health and safety of persons at the Lands and the Buildings;
 - f. use its reasonable efforts to maintain full occupancy of the Buildings and select Occupants as set out in Schedule D;
 - g. not enter into a contract with a value of greater than \$10,000 for the management of all or part of the Lands and the Buildings by any person or organization, unless approved by the City acting reasonably.
 13. **Communication with the City.** The Operator as soon as reasonably possible will:
 - a. provide the City with details on all incidents that are significant enough to threaten the continuous operation of the Lands and the Buildings as contemplated by this Agreement and the Leases, including but not limited to, fire, flood, outbreaks of infectious diseases and/ or the death of Occupants and staff on site (but only if such deaths are directly related to the operation of the Buildings);
 - b. notify the City before making any changes that could diminish the Operator's ability to fulfill its obligations under this Agreement, the Leases or the Leasehold Mortgages;
 - c. submit for review by the City all material policy changes related to the Lands and the Buildings; and
 - d. submit the reports called for by Schedule C.
 14. **Maintenance and Capital Repair and Replacement.** The Operator, utilizing qualified professionals, will meet the Performance Standards, and will:
 - a. implement a program of regular inspections, repair and maintenance to the Lands and the Buildings and the systems and equipment therein in accordance with the Maintenance Plan and the Operating Budget;
 - b. implement the recapitalization/life cycle replacement of building systems, including equipment, structures, surfaces or fixtures installed in the Lands and the Buildings, in accordance with the Capital Asset Plan, the Operating Budget and the Replacement Reserve pre-approved by the City;
 - c. prepare and deliver to the City the first Maintenance Plan by not later than one year after the First Lease Commencement Date and the second Maintenance Plan by not later than _____, and thereafter prepare and deliver to the City a Maintenance Plan by not later than the first day of every third Fiscal Year of the Operator during the Term, unless the City and the Operator otherwise agree;

- d. prepare and deliver to the City the first Capital Asset Plan by not later than one year after the First Lease Commencement Date and the second Capital Asset Plan by not later than _____, and thereafter prepare and deliver to the City a revised and updated Capital Asset Plan by not later than the first day of every sixth Fiscal Year of the Operator during the Term, unless the City and the Operator otherwise agree;
 - e. establish a Replacement Reserve that must be maintained and used only for the purposes identified in the Capital Asset Plan and Replacement Reserve Study or otherwise approved in writing by the City;
 - f. advise the City immediately if it becomes aware of any structural deficiency in the Lands and the Buildings, which requires the intervention of the City;
 - g. ensure that all work and services provided by third parties is competitively priced and represents best value for the Lands and the Buildings, and the City as the owner thereof, including, where appropriate as determined by the Operator, acting reasonably, using requests for proposals or invitations to tender to obtain multiple competitive proposals or bids for comparison purposes where considered appropriate. Written records of proposals and bids so obtained must be retained for not less than seven years and made available to the City upon reasonable request;
 - h. provide the City with the reports contemplated by Schedule C; and
 - i. comply with the requirements of the Service Level Agreements.
15. **Preservation of Assets.** The Operator will ensure that all grounds, landscaping, buildings, Lands and Buildings related equipment and other Lands and Buildings related chattels belonging to the City, or acquired by the Operator on behalf of the City during the Term, are maintained in good repair throughout the Term in accordance with the Operating Budget. At the end of the Term, the Operator will return all Lands and Buildings related equipment and other Lands and Buildings related chattels to the City in the same condition as at the start of this Agreement, normal wear and tear excepted.
16. **Promotion of Smoke-Free Housing.** Noting the social, environmental and general health benefits of smoke-free housing, the Operator is encouraged to manage the Lands and the Buildings throughout the Term in a manner which includes "smoke-free and offensive odor-free housing" areas within the Lands and the Buildings, though eligible Occupants may include both smokers and non-smokers and the City acknowledges and agrees that some of the Occupants are likely to be smokers notwithstanding the Operator's encouragements.
17. **Pet-Friendly Buildings.** The Operator may permit Occupants to keep pets in Residential Units, within reasonable limits and provided the Operator collects an appropriate pet deposit and ensures the applicable Occupant is liable for any and damage to the Residential Unit resulting from the pet.
18. **Replacement Reserve Study.** Concurrent with the preparation and delivery of each Capital Asset Plan the Operator will prepare and deliver to the City a Replacement Reserve Study. The cost of preparing the Replacement Reserve Study will be included in the Operating Budget for the Fiscal Year in which it is prepared. If that Study indicates a likely shortfall in funding required to cover the costs for which the Replacement Reserve has been created, then the parties will promptly meet and work together in good faith and will discuss possible mutually satisfactory solutions and funding options, and will timely implement the same.
- C. **RIGHTS AND RESPONSIBILITIES OF THE CITY**
1. **Responsibilities.** The City will:
 - a. assign a person to act as liaison with the Operator;
 - b. provide advice and guidance to the Operator in managing the Lands and the Buildings to meet the objectives and provisions in this Agreement;
 - c. monitor the operation of the Lands and the Buildings and the use by the Operator of the Replacement Reserve and the Operating Reserve in accordance with this Agreement, to ensure that the standards, objectives and expectations in this Agreement are met;
 - d. provide timely responses to issues raised by the Operator to ensure the Operator receives adequate support;
 - e. in every case where this Agreement requires the Operator to obtain the

approval of the City, including without limitation the approval of the City of:

- i. the Maintenance Plan;
 - ii. the Capital Asset Plan;
 - iii. the Operating Budget;
 - iv. the Replacement Reserve Study and the use of the Replacement Reserve; and
 - v. the Operator's proposed policies and procedures for establishing rent and asset calculations as set out in Schedule F, Clause 1, the City will allocate the necessary resources to ensure that the Operator's submissions to the City are reviewed and considered expeditiously and will provide the City's written approval, or detailed written reasons for its disapproval, as the case may be, as soon as possible and, in any event, within 30 days (or within 60 days, if the approval of Council is required) of receiving the Operator's submissions or within such shorter period of time as may be necessary in the circumstances; and
- f. comply with the requirements of the Service Level Agreements.
2. **Naming Rights.** The City and the Operator shall jointly agree, each party acting reasonably, on the naming the Buildings or any portion(s) thereof, and the placing of plaques, signs or other means of displaying such names or other means of recognition, provided however that the Operator may place modest signage at the Buildings indicating their management of the Building.

D. FINANCIAL MANAGEMENT

1. **Finances.** The Operator will establish written policies and procedures for effective control of finances for the Lands and the Buildings and, in particular, will:
 - a. establish and maintain books of account and retain invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the City, to be used as the basis for the calculation of the payment as set out in Schedule B;
 - b. prepare an Operating Budget in advance of each Fiscal Year and regularly review the financial affairs in accordance with Schedule B;
 - c. ensure that sound written financial operating policies and procedures are in place, including record keeping and financial statements in accordance with Generally Accepted Accounting Principles (GAAP); and
 - d. provide annual financial statements, including the applicable management letter, indicating that the Operator has properly funded and maintained the Replacement Reserve and other reserves, as applicable, and that all interest accruing to the Replacement Reserve and other reserves, as applicable, has been recorded.
2. **Auditor.** The Operator will appoint an auditor of the Operator in compliance with the *Society Act* (British Columbia) who will be in good standing in accordance with the laws of the Province of British Columbia and will not be a member of the Operator. The Operator will cause the auditor to audit the financial statements of the Operator.
3. **Audited Financial Statements to be submitted.** The Operator will submit audited financial statements to the City within six months after the end of each Fiscal Year. The audited financial statements will include a project-specific "budget versus actual" expense and income review and a summary of all reserves and surpluses.

E. BOOKS AND ACCOUNTS

1. **Fiscal Year.** The Operator will provide notice of its fiscal year end date to the City and will provide the City notice of any subsequent changes.
2. **Operating Income.** All Operating Income received by the Operator from whatever source with respect to the Lands and the Building will be collected by the Operator, held by the Operator and used by the Operator solely for the purpose of and to the extent authorized by this Agreement.
3. **City Audit.** The City reserves the right to audit the books, records and accounts of the

Operator pertaining to its operation of the Lands and Buildings or otherwise pertaining to this Agreement at any reasonable time.

F. RECORDS

1. **Records, Retention and Access.** The Operator will maintain adequate operational records for the Lands and the Buildings and the following apply:
 - a. the Operator will retain all documents, vouchers, records and accounts that pertain to the Lands and the Buildings for not less than seven (7) years following the date of receipt or production of those records;
 - b. the City and its agents may inspect all records maintained by the Operator for the Lands and the Buildings at the time of the operational review, and may make extracts from and take photocopies of those records; and
 - c. upon reasonable notice, in accordance with the City's obligations pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia), the Operator will, upon request:
 - i. disclose to an Occupant the Operator's file for the Occupant, if and to the extent required by applicable laws; and
 - ii. cooperate with the City if the City has a request to disclose third party information under the *Freedom of Information and Protection of Privacy Act* (British Columbia), subject to the Operator's compliance with its obligations under that Act and any other applicable legislation.
2. **Information Management.** The Operator will:
 - a. collect information and, if applicable, create and retain records in relation to Occupants during the Term of this Agreement, as required by this Agreement, all in accordance with the requirements of the *Personal Information Protection Act* (British Columbia) as applicable;
 - b. notify the City immediately upon becoming aware of any breach of security involving the unauthorized collection, use, disclosure or destruction of information relating to the Lands and the Buildings;
 - c. treat as confidential all information or material provided to the Operator by the City, by Occupants, or by third parties if the information concerns Occupants and is relevant to this Agreement;
 - d. keep all documents and records produced or received by the Operator in relation to this Agreement segregated from other documents to the extent it is practical to do so; and
 - e. safeguard records and not permit their disposition or destruction for 7 years from the date on which they were created, except as required by applicable law, including the *Document Disposal Act* (British Columbia).

G. LIABILITY

1. **Release.** The Operator now releases the City and the City's Personnel from and against all costs, losses, claims, damages, actions and causes of action ("**Claims**") including those caused by personal injury, death, property damage or loss, and economic loss, arising out of, suffered or experienced by the Operator or the Operator's Personnel in connection with this Agreement.
2. **Indemnity.** The Operator now agrees to indemnify and save harmless the City and the City's Personnel (in each case, an "**Indemnified Party**") from and against any and all Claims that an Indemnified Party may sustain, incur, suffer or be put to at any time that arise out of any act or omission of the Operator or the Operator's Personnel in connection with this Agreement.
3. **Survival.** The release set out in Schedule A, Clause G.1 and the indemnity set out in Schedule A, Clause G.2 shall survive termination or expiry of this Agreement.
4. **Assignment and Subcontracting.**
 - a. The Operator will not assign, either directly or indirectly, this Agreement or any right or obligation of the Operator, respectively, under this Agreement,

- without the prior written consent of the City.
- b. No subcontract entered into by the Operator will relieve the Operator of any of its obligations under this Agreement or impose upon the City any obligation or liability arising from any such subcontract. The Operator must ensure that any subcontractor fully complies with this Agreement in performing the subcontracted services.
 - c. This Agreement will be binding upon the City and its assigns and the Operator and its successors, and permitted assigns.
 - d. The City will provide 90 days' notice of intent to assign or subcontract its responsibilities under this Agreement.

H. GENERAL PROVISIONS AND INTERPRETATION

1. **Reasonableness.** Wherever in any provision of this Agreement the City is required or empowered to give its consent or approval or exercise its discretion, the City agrees to proceed expeditiously and not to unreasonably or arbitrarily withhold or delay such consent or approval nor exercise such discretion unreasonably or arbitrarily, unless the contrary intent is specifically expressed in such provision.
2. **Determination by the City.** Wherever in this Agreement the City's approval is required for a decision or action of the Operator, the City's determination, designation or decision, acting reasonably, with regard to that approval shall be in writing and delivered to the Operator.
3. **Notices.** All notices, demands and requests which may or are required to be given pursuant to this Agreement will be in writing and will be sufficiently given if served personally upon the party for which it is intended, or mailed prepaid and double registered:

If to the Operator, addressed to:

Community Land Trust Foundation of BC

Attention: *[Insert contact]*

If to the City, addressed to:

The City of Vancouver

453 West 12th Avenue

Vancouver, British Columbia V5Y 1V4

Attention: City Clerk

cc: Director of Legal Services

And: Director of Real Estate Services

or at such other address as the parties may from time to time advise by notice in writing. The date of receipt of any such notice, approval or request will be deemed to be the date of delivery of such notice, approval or request if served personally or, on the fifth business day (being any day other than a Saturday, a Sunday or a statutory holiday in the province of British Columbia) next following the date of such mailing if mailed as aforesaid, provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request will only be effected if actually delivered.

4. **Enuring Effect.** This Agreement enures to the benefit of and binds each of the City and the Operator and their respective successors and permitted assigns.

5. **Time.** Time is of the essence of this Agreement. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other parties. Any time specified in this Agreement for observing or performing an obligation is local time in Vancouver, British Columbia.
6. **Governing Law.** This Agreement is to be governed by and construed and enforced in accordance with the laws of the Province of British Columbia.
7. **References.** If the singular, masculine, feminine or neutral is used in this Agreement, the reference is to the plural, masculine, feminine or body corporate according to the context in which it is used.
8. **Construction.** The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit or aid in the construction of any provision. In all cases, the language in this Agreement is to be construed simply, according to its fair meaning and not strictly for or against any party.
9. **No Limitation.** The word "including" when following any general statement, term or matter is not to be construed to limit that general statement, term or matter to the specific items set forth immediately following that word or to similar items. That general statement, term or matter is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of that general statement, term or matter.
10. **Document Written in Present Tense.** The word "will", where the subject is either or both of the parties, denotes a present obligation.
11. **Validity of Provisions.** If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that invalidity, illegality or unenforceability does not affect any other provisions of this Agreement. The balance of the Agreement is to be construed as if that invalid, illegal or unenforceable provision had never been included and is enforceable to the fullest extent permitted at law or at equity.
12. **Waiver.** No consent or waiver, expressed or implied, by a party of any default by another party in observing or performing its obligations under this Agreement is effective unless given in writing, nor is it a consent or waiver of any other default. Failure on the part of any party to complain of any act or failure to act by another party or to declare such other party in default, irrespective of how long that failure continues, is not a waiver by that party of its rights under this Agreement or at law or at equity.
13. **Consents and Approvals.** Except as otherwise expressly set out in this Agreement, where this Agreement provides for any approval, consent or Agreement with respect to any matter:
 - a. it will be obtained before any action is taken on it;
 - b. it will be requested and responded to in writing; and
 - c. it will not be unreasonably withheld, except if this Agreement otherwise expressly stipulates, or delayed.
14. **Extent of Obligations and Costs.** Every obligation of each party in this Agreement extends throughout the Term. To the extent an obligation ought to have been observed or performed before or upon the expiry or earlier termination of the Term, that obligation survives the expiry or earlier termination of the Term until it has been observed or performed.
15. **Financial Terms.** All accounting terms not otherwise defined in this Agreement have the meanings assigned to them, and all calculations to be made under this Agreement are to be made in accordance with Canadian Generally Accepted Accounting Principles consistently applied.
16. **Statutes.** Any reference in this Agreement to a provincial or federal statute includes the statute as it exists on the reference date of this Agreement and any subsequent amendments or replacements.

I. **DEFAULT, INTERVENTION AND REMEDIES**

1. **Event of Default by the Operator.** Any of the following events will constitute an Event of Default by the Operator under this Agreement:
 - a. the Operator is in breach of any Lease or Leasehold Mortgage;
 - b. failure to materially meet the Performance Standards or any other provision of this Agreement;
 - c. the Operator fails to remain in good standing under the *Society Act* (British Columbia) or becomes insolvent or otherwise acknowledges its insolvency, or commits an act of bankruptcy, or makes an assignment for the benefit of its creditors, or an order is made or a resolution is passed, or a petition is filed for the liquidation or winding up of the Operator, or a receiver is appointed to manage any of the assets of the Operator, or the Operator ceases, in the opinion of the City, to operate;
 - d. the Operator is in breach of or fails to comply with any law, by-law or regulation applicable to the performance of its obligations hereunder;
 - e. the Operator permits any sum which is not disputed to be due by it to the City or pursuant to a Leasehold Mortgage, to remain unpaid after legal proceedings have been commenced to enforce payment thereof; or
 - f. if the Operator knew or ought to have known any significant information, statement, certificate, report or other document furnished or submitted by, or on behalf of, the Operator pursuant to, or as a result of, this Agreement is materially untrue or materially incorrect.
2. **Event of Default by the City.** Any of the following events will constitute an Event of Default by the City under this Agreement:
 - a. failure to materially perform the provisions of this Agreement that are the responsibility of the City and such failure continues for forty-five (45) days following notice by the Operator identifying such failure in reasonable detail and requiring the City to cure such failure or in the case of a failure which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the City does not commence the rectification of such failure within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceeds to cure such failure.
3. **Procedure for Intervention.** Subject to Clause J.1 below, the following is the procedure for intervention by the City upon the occurrence of an Event of Default by the Operator (subject to the provisions of a Lease or the Leasehold Mortgage, as applicable, where the Event of Default arises from a breach of any of those agreements):
 - a. **Communication.** The City will give the Operator written notice of the Event of Default, which notice will provide for a reasonable time for the Operator to respond to the notice of Event of Default by providing further information concerning the Event of Default.
 - b. **Action Plan.** The City and the Operator will agree on an action plan to cure the Event of Default, including a schedule for implementation of the action plan, identification of the resources available to the Operator to implement the action plan, and the dates on which the City will review progress on implementation of the action plan.
 - c. **On Watch.** If the Operator does not cure the Event of Default within a reasonable time, the City may place the Operator "On Watch", which means that:
 - i. this is a warning that the City will intervene further if the Event of Default is not cured;
 - ii. the City will monitor the operation of the Lands and the Building and the performance of obligations under this Agreement by the Operator more often and in more depth, including a management audit before the end of a Review Period; and

- iii. if the Operator makes progress in curing the Event of Default, the City will lessen its monitoring and the On Watch status may be withdrawn.
- d. **Co-management.** The City may appoint a manager to work with and supervise the Operator, in operating the Lands and the Buildings and in curing the Event of Default, in order to:
 - i. improve the Operator's management of the Lands and the Buildings and return operation of the Lands and the Buildings to the Operator, as applicable, at some future date; and
 - ii. provide education, training and other necessary resources to the Operator to cure the Event of Default.
- 4. **Non-Default Disputes.** If either the Operator or City has significant concerns relating to the management or operation of the Buildings at any time during the Term, the parties agree that, promptly following notice of such concerns to the other party, they will meet and work together in good faith to identify mutually satisfactory solutions and a timeframe to implement same, provided always that the foregoing shall not relieve the Operator of its obligations pursuant to this Agreement unless agreed in writing by the City in its sole discretion and that if an Event of Default has occurred, Section 1.3 above shall apply.
- 5. **Mediation.** If the parties have a dispute arising out of or in connection with this Agreement, or in respect of any defined legal relationship associated with it or from it (other than a Lease or Leasehold Mortgage), the parties agree to try to resolve the dispute by participating in a structured negotiation conference with a mediator agreed upon by the parties or, failing agreement, under the Commercial Mediation Rules of the British Columbia International Commercial Arbitration Centre, in which case the appointing authority is the British Columbia International Commercial Arbitration Centre.
- 6. **Dispute Resolution.** If the process of mediation above fails, the parties agree that the following dispute resolution process will be used:
 - a. a meeting will be held promptly between the parties, attended by individuals with decision making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute;
 - b. if, within fourteen (14) days after such meeting or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties will submit the dispute to arbitration; and
 - c. the remaining issues in dispute will be determined by arbitration under the *Commercial Arbitration Act* (British Columbia), and the decision of the Arbitrator will be final and binding and will not be subject to appeal on a question of fact, law or mixed fact and law.

J. TERMINATION

- 1. **Early Termination by the City.** Notwithstanding anything stated to the contrary in this Agreement, the parties agree that the City will have the right at any time, by giving seven (7) business days written notice to the Operator, to terminate this Agreement in any of the following events, unless the parties otherwise agree in writing:
 - a. upon the bankruptcy and/or receivership of the Operator;
 - b. upon termination of a Lease except upon the City's default;
 - c. upon the Operator failing to cure an Event of Default in the manner or in accordance with the schedule set out in an Action Plan approved by the City;
 - d. upon the Operator ceasing to carry out its operations without profit to itself or its members;
 - e. upon the failure by the Operator to maintain its corporate status and remain in good standing under the applicable laws of the Province of British Columbia;

- f. upon the failure by the Operator to restrict its activities and undertakings to those authorized or permitted under its constating documents; or
 - g. upon the failure of the Operator without adequate justification, to comply with the requirements of any applicable law, regulations, bylaw or other directive having the force of law and enacted or promulgated by or under the authority of the Government of Canada and/or the Province of British Columbia.
2. **Early Termination by the Operator.** Notwithstanding anything stated to the contrary in this Agreement, the parties agree that the Operator will have the right at any time:
- a. by giving twenty-four (24) hours written notice to the City, to terminate this Agreement in any of the following events, unless the parties otherwise agree in writing:
 - i. if either Loan is not obtained by the Operator for any reason;
 - ii. upon termination of a Lease, except upon the Operator's default;
 - iii. upon an Event of Default by the City having occurred without the Event of Default being cured within the applicable cure period set out in Clause I.3 and I.2 above, respectively; or
 - iv. upon the failure of the City, without adequate justification, to comply with the requirements of any applicable law, regulations by-law or other directive having the force of law and enacted or promulgated by or under the authority of the Government of Canada and/or the Province of British Columbia and such failure continues for forty-five (45) days following notice by the Operator identifying such failure in reasonable detail and requiring the City to cure such failure or in the case of a failure which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the City does not commence the rectification of such failure within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceeds to cure such failure.
3. **Adjustments on Termination.** Upon the termination of this Agreement, however effected, the parties will forthwith complete all necessary accounting and adjustments between them to effectively reconcile and finalize their obligations pursuant to this Agreement and the Lease. Such adjustments will include, without limitation:
- a. the delivery or transfer by the Operator to the City, effective as of the termination date, of the Replacement Reserve and the Operating Reserve, in each case including all accumulated interest, after payment of any Operator expenses or liabilities contemplated by this Agreement;
 - b. use or division of any unexpended or allocated accrued surplus, including all accumulated interest, in accordance with Schedule B, as applicable; and
 - c. any adjustments required by the Lease, including without limitation a pro-rata refund by the City to the Operator of the prepaid Basic Rent attributable to the portion of the Term remaining after the date of termination of this Agreement, if required by the Lease.
4. **Non-Disturbance of Occupants.** All Occupants in residence at the Lands and the Buildings at the time of any termination of this Agreement shall be permitted to remain in residence notwithstanding the termination of this Agreement or the Lease, unless alternate arrangements are agreed to by any such Occupant, and the City shall honour all residential tenancies in place at the time of such termination, in accordance with the *Residential Tenancy Act* (British Columbia).

SCHEDULE B - FINANCIAL

A. OPERATING BUDGET

1. **Operating Budget:** The Operator and the City acknowledge and agree that the Operator has submitted to the City, in a format that was pre-approved by the City and that had regard to the Performance Standards set out in Schedule G, the Operating Budget for the period of time commencing on the First Lease Commencement Date and ending on the Operator's Fiscal Year End in 2018, and that such Operating Budget was approved by the City. At least two (2) months prior to the end of each Fiscal Year thereafter, the Operator will submit to the City for review, having regard to the Performance Standards set out in Schedule G, an Operating Budget for the upcoming Fiscal Year, in a similar format, showing the anticipated gross Operating Income for the Lands and the Buildings together with all anticipated Operating Expenses. The City will endeavour to review and comment on each such Operating Budget not more than thirty (30) days after receipt of the same from the Operator, with the intention and expectation that an Operating Budget will be mutually agreed to and settled as of the beginning of each such Fiscal Year. The Operating Budget submission will follow the format of the first Operating Budget and may be amended by mutual consent. The City and the Operator acknowledge and agree that the mutual target Operating Expenses for the first year after the Lease Commencement Date is \$[____] per Residential Unit per month. The City and the Operator will review the actual Operating Expenses in accordance with the reporting requirements in Schedule C and will use such information to inform discussions for the next year's budget.
2. **Budget Deviations:** The Operator will make reasonable efforts not to exceed the total approved Operating Budget without the prior authorization of the City. The City acknowledges and agrees that the Operator is and will be relying entirely on the Loans to pay for the Basic Rent, will be relying entirely on the Replacement Reserve to pay for capital replacements, and will be relying entirely on the Operating Income, the Operating Reserve and the Operating Surplus to pay for the Operating Expenses, the payments to be made by the Operator under the Loans, and all other costs and expenses which the Operator is required to incur or pay for under or pursuant to the terms of this Agreement, and accordingly the City agrees that, notwithstanding anything in this Agreement to the contrary, the Operating Expenses, the payments to be made by the Operator under the Loans, and all other costs and expenses which the Operator is required to incur or pay for under or pursuant to the terms of this Agreement will be paid out of the Operating Income, the Operating Reserve, the Operating Surplus and the Replacement Reserve, unless the City and the Operator agree otherwise in writing or this Agreement otherwise provides.
3. **Income and Expenses.**
 - a. The Operator will be responsible for collecting all Operating Income for the Lands and the Buildings, and for paying out of such Operating Income all Operating Expenses.
 - b. The Operator will ensure payments are made to contracted service providers within pre-established payment periods. Any fines, penalties, surcharges, incurred by the Operator or by the City as an expense related to Operator error or negligence will be the responsibility of the Operator.
 - c. The Operator may generate revenue from sources such as vending machines and laundry machines. Income generating opportunities will be reflected in the annual Operating Budget. The City reserves the right to review income generating opportunities in terms of impact on resident service, feasibility of the physical plant etc.

B. OPERATING INCOME FUNDED REPLACEMENT AND OPERATING RESERVES

1. **Replacement Reserve.** The Operator will create a reserve (the "Replacement Reserve") out of the Operating Income for capital replacements to the Lands and the Buildings and their systems, equipment and surfaces, based on the items and life in years as set out in the Capital Asset Plan, and subject to the Replacement Reserve Study, the following will apply:
 - a. for the period of time commencing on the Lease Commencement Date and

ending on _____, the Operator will deposit in the Replacement Reserve _____ (\$__) per Residential Unit per month from the Operating Income. *[For each subsequent Fiscal Year, this amount will be increased by __% per annum];* and

- b. the Operator will use or dispose of the Replacement Reserve only for capital replacements to the Lands and the Buildings and their systems, equipment and surfaces in accordance with the Capital Asset Plan, or to pay for other payments as may be approved by the City.
2. **Operating Reserve.** The Operator will also fund from the Operating Surplus, as contemplated by Clause C.1.a below, and manage the Operating Reserve.
3. **Transfer of Reserves Upon Termination.** At the termination of this Agreement, regardless of cause, all funds in the Replacement Reserve and the Operating Reserve, in each case including all accumulated interest, but after payment of any Operator expenses or liabilities contemplated by this Agreement, will be transferred to the City, together with a reconciliation of the balances in those Reserves.

C. OPERATING SURPLUS

1. Once the Replacement Reserve has been funded in accordance with the requirements of this Agreement, any remaining Operating Surplus will be used as follows:
 - a. first, to fund the Operating Reserve, to a maximum of an amount equivalent:
 - i. in the first year of the Term, to the annual Operating Budget for that year (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions); and
 - ii. thereafter, to the total operating costs for the Fiscal Year most recently completed based on the Operator's audited statements (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions);
 - b. second:
 - i. for Operating Surplus generated prior to the 10th anniversary of the Second Lease Commencement Date, the remaining balance of the Operating Surplus shall be put towards the Replacement Reserve; and
 - ii. for Operating Surplus generated on or after the 10th anniversary of the Second Lease Commencement Date, to top up the Replacement Reserve by 50% of the remaining Operating Surplus; and
 - c. third, if there is an Operating Surplus balance remaining, the City and the Operator may agree to put such balance towards:
 - i. increasing the percentage of *[HILs Units/Shelter Rate Units]* in the Buildings above the percentages set out in Schedule D, Clause A.1 or by subsidizing the Housing Charge payable in respect of Low-End of Market Units for eligible Occupants who cannot afford to pay the Low-End of Market Unit Housing Charge;
 - ii. the Operator creating or acquiring net new, affordable housing within the City of Vancouver;
 - iii. the payment of identified capital maintenance or replacement costs; or
 - iv. deepen affordability of other non-market buildings for which the Operator has a lease with the City.

If the City and Operator do not come to an agreement on the use of the balance of the Operating Surplus, any such amount shall be shared equally between the Operator and the City.

D. INCOME AND HOUSING CHARGE

1. **Parking.** The Operator may rent, or impose other usage charges for the use of, the parking spaces within the Lands and the Buildings, other than those that are required by the City's Parking By-law to be set aside for visitors, handicapped persons or reserved for use as loading bays, to such third parties and at such rates as the Operator

may in its sole discretion decide.

2. **Application of Housing Charges.** The Operator will collect Housing Charges, parking usage fees and other fees and amounts payable by Occupants or third parties for use of the Lands and the Buildings, and will apply this income to the cost of operating the Lands and the Buildings.

E. INVESTMENT OF FUNDS

1. The Operator will deposit and keep the Replacement Reserve and the Operating Reserve and accumulated interest in a separate bank account or in accounts or instruments as follow:
 - a. in an account insured by the Canadian Deposit Insurance Corporation or by the Credit Union Deposit Insurance Corporation;
 - b. in an investment in accordance with the *Society Act* (British Columbia) or the Vancouver Charter;
 - c. in an investment guaranteed by a Canadian government; or
 - d. in other investment instruments the City first approves in writing.

F. UNAUTHORIZED EXPENDITURES AND ACTS

1. With regard to its occupation and operation of the Lands and the Buildings, the Operator will not, without the prior written approval of the City:
 - a. borrow money other than pursuant to a Leasehold Mortgage, if it encumbers the Operator's leasehold interest in the Lands and the Buildings, it creates any liability for the City or, in the reasonable opinion of the City, it compromises the Operator's ability to strictly fulfill and perform its obligations under the Leasehold Mortgages; provided, however, that the City acknowledges that financing may be needed by the Operator in future to pay for building code updates and/or major repairs, which borrowing the Operator agrees will only be committed to with the prior written approval of the City;
 - b. guarantee or underwrite the repayment of any obligation assumed by a third party;
 - c. pay to a person or organization any amount for the purpose of supporting activities the objective of which is to make representations to any government body on any subject matter not directly related to the operation of the Lands and the Buildings. This provision does not apply to annual membership fees to sector organizations;
 - d. release, compromise, assign or transfer any claim, right or benefit of the City in connection with or arising out of the City's interest in the Lands and the Buildings; or
 - e. confess a judgement against it.

G. EXTRAORDINARY EXPENSES

1. In the event that:
 - a. there are insufficient funds in the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as the case may be, to pay for the cost of any work that is the responsibility of the Operator pursuant to this Agreement;
 - b. such work is an Extraordinary Expense; and
 - c. the shortfall exists despite the Operator having managed the Buildings and the Lands as contemplated by this Agreement and the Leases.the following process shall apply:
 - d. the parties shall meet and work together to review the Operating Budget to identify whether the Extraordinary Expense can be funded through Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as applicable. If the parties agree that the Extraordinary Expense can be funded through the Replacement Reserve, the Operating

- Income, the Operating Reserve and/or the Operating Surplus, as applicable, then the Operator shall pay for the Extraordinary Expense accordingly;
- e. if both parties agree that the Extraordinary Expense cannot be funded through the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as applicable, the parties shall jointly review and assess the following alternative funding options, and all other potential alternative funding options, to identify and agree upon an alternate source or sources of funding:
 - i. the proceeds of any insurance policy carried by the Operator;
 - ii. any warranty applicable to the Building element that gave rise to the Extraordinary Expense;
 - iii. refinancing of the applicable Loan;
 - iv. additional debt financing by the Operator;
 - v. funding by the Operator from the proceeds of other projects operated by the Operator;
 - vi. fund raising by the Operator;
 - vii. funding or grants available to the Operator through the Provincial or Federal governments or other government or public entities;
 - viii. restructuring the Operating Budget; and
 - ix. the application of cost savings from operating efficiencies identified by the parties.
 - f. if the parties have exhausted all of the options for alternative sources of funding for an Extraordinary Expense set out in (e) above and have determined, acting reasonably, that the Extraordinary Expense cannot be funded in whole or in part from such sources, then the City will facilitate access to the necessary funds to enable the Operator to pay such costs, subject to City Council approval. Any funds provided by the City to the Operator as a result would be advanced subject to the condition that the Operator reimburses the City from any Operating Surplus that would otherwise be retained by the Operator pursuant to Schedule B, C.1.c. The City may, in its sole discretion, elect to forego any such reimbursement, in whole or in part, subject to the Building's funding capacity and the Operator's ability to meet its financial obligations under this Agreement for the remaining term of the applicable Lease and this Agreement.

SCHEDULE C - MONITORING AND REPORTING

A. INCOME/RENT REPORTING

1. The Operator will, on an annual basis commencing at the end of the Operator's Fiscal Year ending 2018, make information related to its operation and management of the Lands and the Buildings available to the City, to assist the City in:
 - a. identifying occupancy and service trends;
 - b. monitoring income earned and expenses incurred; and
 - c. monitoring the Operator's compliance with the requirements of this Agreement and the Lease.
2. The City, acting reasonably, reserves the right to change the type of information required, with at least thirty (30) days' written notice to the Operator provided that, if there are additional costs to the Operator in complying with new requirements, the City and the Operator will adjust the Operating Budget to reflect the increased costs as agreed to by both parties.

B. OPERATIONAL REPORTING

1. Commencing at the end of the Operator's Fiscal Year in 2018, and at the end of every third Fiscal Year thereafter, the Operator will submit an operator report to the City no later than three (3) months after the Operator's Fiscal Year end in form and contents to be pre-approved by the City. The Operator's report will include, in respect of the last three Fiscal Years (or partial Fiscal Years, if applicable, at the beginning and end of the Term or otherwise) just ended, unless otherwise indicated:
 - a. gas, electricity, and water consumption in the Lands and the Building;
 - b. copies of relevant licenses and inspection reports;
 - c. completed maintenance and improvement report as per the Maintenance Plan, summarizing the routine maintenance activities and costs, and, as per the Capital Asset Plan, any capital maintenance performed, or any renovations/modifications or improvements completed in the last three Fiscal Years (or partial Fiscal Years, if applicable);
 - d. completed checklists related to quality assurance;
 - e. explanation for any variance in expenditure greater than ten percent (10%) in completing the Maintenance Plan or the Capital Asset Plan in respect of the year or years in question;
 - f. a short report on current operational challenges, issues and successes; and
 - g. rental mix, broken down between Shelter Rate Unit Occupants, HILs Unit Occupants and Low-End of Market Unit Occupants and by unit type.
2. The Operator will also submit its Maintenance Plan as required by Schedule A, Clause B.14(c).
3. At the end of the Operator's Fiscal Year in 2018, and at the end of every third Fiscal Year thereafter, the City may conduct an onsite operational review. The City will provide the Operator with reasonable notice of any such operational review.

C. CAPITAL REPORTING

1. In addition to the foregoing reporting requirements, the Operator will submit to the City for its review and approval an updated Capital Asset Plan every six years, together with a Replacement Reserve Study to be funded out of the Replacement Reserve.

D. OPERATIONAL REVIEW

1. At the end of the Operator's Fiscal Year in 2018, and at the end of every third Fiscal Year thereafter, the Operator will arrange for a review of the Operator's compliance with statutory requirements and the terms of this Agreement.
2. The costs of such reviews are to be included in the Operating Budget for the year in which they are to be conducted.

E. MODIFIED REPORTING

1. Notwithstanding anything in this Schedule C to the contrary, all of the information to be provided by the Operator to the City pursuant to this Schedule C will be provided by the Operator to the City on _____ (regardless of the standard reporting frequency stated above) in order to inform the Basic Rent to become due under the Leases commencing in 2018.
2. From time to time, upon each reasonable request of the other, the City and the Operator will review the performance standards mandated by this Agreement. If through such review, the City or the Operator, each acting reasonably, identifies areas where performance of the Operator or the City under this Agreement could be materially improved, the City and the Operator will meet and attempt to agree upon a revised performance plan. Such revised plan may include changes to the reporting requirements and the reporting frequency stated herein. In these instances the City's concerns and proposed new reporting requirements and the Operator's concerns and proposed new reporting requirements will each be clearly communicated to the other and be given due consideration by the other.

F. SUMMARY

The following table is a summary of the reporting requirements stipulated in this Agreement and has been included for convenience of reference only. In the event of a conflict between this table and any specific provision in this Agreement, the specific provision in this Agreement shall prevail.

Information Type	First Report Required	Reporting Frequency thereafter	Description
Operating Budget	Initial operating budget to be agreed prior to lease commencement	Annual	Operating budget setting out the proposed budget for the upcoming year.
Independent Audit Report	At end of year 1	Annual	An audit firm carries out an assessment each year of- tenant files, financial processes, account record and produces a financial statement report (including info on replacement reserve and operating balances)
Income / Rent Information	At end of year 1	Annual	Rent roll, tenant income and vacancy information.
Operational Review	At end of year 1	Every 3 years	The operational review meeting will include a site visit with the City to review the general maintenance of the building and a discussion on performance in relation to the operating agreement.

Information Type	First Report Required	Reporting Frequency thereafter	Description
Lifecycle Capital Maintenance Plan	The capital maintenance plan will be agreed within the first year of the lease term.	Every 6 years (to coincide with every other Operational Review)	Capital maintenance plan to be updated every 6 years and reviewed as part of operational review.
Maintenance Plan	By end of year 1 - agree maintenance plan with City	Every 3 years (to coincide with the Operational review)	Reviewed as part of operational review every 3 years.

SCHEDULE D - OCCUPANT ELIGIBILITY

A. OCCUPANT SELECTION AND OCCUPANCY AGREEMENTS

1. **Occupant Mix.** The Operator will at all times during the Term, use its reasonable efforts to ensure that, in respect of the Building located on the 1st Avenue Lands:
 - a. not more than 71 of the Residential Units in the Building are occupied by Low-End of Market Unit Occupants, being _____ () of the studio units, _____ () of the one- bedroom units and _____ () of the two-bedroom units (the Low-End of Market Units);
 - b. not less than 10 of the Residential Units in the Building are occupied by Shelter Rate Unit Occupants, being _____ () of the studio units, _____ () of the one-bedroom units and _____ () of the two-bedroom units (the Shelter Rate Units); and
 - c. not less than 54 of the Residential Units in the Building are occupied by HILs Unit Occupants, being _____ () of the studio units, _____ () of the one-bedroom units and _____ () of the two-bedroom units (the HILs Units);and in respect of the Building located on the Main Street Lands:
 - d. all of the Residential Units in the Building are occupied by HILs Unit Occupants; provided, however, that, as contemplated by Schedule B, Clause C.1.c., as the Buildings' financial viability allows over time, the Operator will act to enhance affordability either within the Buildings or elsewhere in the City of Vancouver.
2. **Low-End of Market Unit Occupants.** All Low-End of Market Units will be occupied only by Low-End of Market Unit Occupants.
3. **Shelter Rate Unit Occupants.** All Shelter Rate Units will be occupied only by Shelter Rate Unit Occupants. Unless otherwise agreed by the City, occupants to fill vacancies in the Shelter Rate Units, will be selected by the Operator in accordance with a tenancing process approved by the City.
4. **HILs Unit Occupants.** All HILs Units will be occupied only by HILs Unit Occupants. Unless otherwise agreed by the City, occupants to fill vacancies in the HILs Units will be selected by the Operator in accordance with a tenancing process approved by the City.
5. **Occupancy Agreements.** An Occupancy Agreement in compliance with Schedule E will be entered into by each prospective Occupant.
6. **Occupant Selection.** The Operator will use its reasonable efforts to maintain full occupancy of the Buildings. The Operator will use its reasonable efforts to house within the Buildings only *[Insert any occupant requirements (e.g priority to persons currently living or working in Vancouver)]*.
7. **Household Size.** All Occupants must be placed in a Residential Unit appropriate to their household size in accordance with the Occupancy Guidelines. Exceptions may be made for persons designated by mutual agreement between the City and the Operator.
8. **Selection Intent.** Where the Operator is unable to find Occupants for all Shelter Rate Units or HILs Units, the Operator will work with the City to select Occupants in such a way as to maintain the intent of housing persons in need of such units.

SCHEDULE E - OCCUPANCY AGREEMENT

A. OCCUPANCY AGREEMENTS

Each Occupancy Agreement between the Operator and an Occupant will be subject to the requirements of the *Residential Tenancy Act* (British Columbia), and the following will also apply:

1. The Operator may collect and keep security deposits. All funds collected and held by the Operator as a security deposit must be handled in accordance with the *Residential Tenancy Act*.
2. The Operator will not require an Occupant to be a member of the Operator.
3. Minor claims by Occupants and third parties are to be managed by the Operator, e.g., claims through the Residential Tenancy Office.
4. The tenancy will be on a month-to-month basis and not for a fixed term.
5. Subject to the rent controls mandated by the *Residential Tenancy Act* (British Columbia), the rent will change if the Occupant's Income or Assets change.
6. Only the persons named in the Occupancy Agreement have a right to occupy the Residential Unit as an Occupant.
7. The Income of any person occupying a Residential Unit as his or her principal residence will be included for the purpose of determining the Occupant's Income.
8. Assignment of the Occupancy Agreement or subletting or otherwise parting with possession of the whole or part of the Residential Unit for the whole or any part of the term of the Occupancy Agreement is prohibited.
9. The Occupant will consent to the City verifying personal information, as defined in the *Freedom of Information and Protection of Privacy Act* (British Columbia), to the extent that such consent is required by that Act to enable the City to carry out its functions under this Agreement.
10. The Occupant will agree to provide such information as is requested by the Operator and/or the City for calculation of the Housing Charge and for auditing purposes. If the Occupant fails to disclose or misrepresents any information requested in the Declaration of Income and Assets, such failure to disclose or misrepresentation will be deemed to be a material breach of the Occupancy Agreement and the following will apply:
 - a. the Operator will be entitled to recover from the Occupant in contract or otherwise the difference between the Housing Charge charged and the amount of the Housing Charge that should have been charged had there been no failure to disclose or misrepresentation and this remedy is not exclusive and may be exercised by the Operator in addition to any other remedies available to the Operator in law or equity and in addition to any remedies of the Operator as set out in the Occupancy Agreement;
 - b. money owing by the Occupant to the Operator under the Occupancy Agreement pursuant to a court order or arbitrator's order or otherwise will bear interest at the Prime Rate from and including the time such money becomes payable, calculated and payable monthly until repayment both before and after judgment; and
 - c. such failure to disclose or misrepresentation of Income or Assets by an Occupant will entitle the Operator to end the Occupancy Agreement.
11. Such other matters as the City may reasonably request.

City Not Responsible. It is understood that the City will not be responsible to the Operator for any breach or failure of an Occupant to observe any of the terms of the Occupancy Agreement between the Occupant and the Operator, including the covenant to pay the Housing Charge. The same relationship will apply as between the Operator and renters/users of parking spaces in the Lands and the Buildings, and as between the Operator and the City in respect of the same.

SCHEDULE F - HOUSING CHARGES

1. **Proof of Income and Assets.** The Operator will establish policies and procedures for establishing rent and asset calculations and submit these to the City for approval. At the time of initial occupancy and annually thereafter, the Operator will obtain a declaration ("Declaration of Income and Assets") and supporting documentation from each Occupant, as evidence of the Income and Assets of each Occupant. The Declaration will be in a form approved by the City as may be amended from time to time. The Operator will maintain a copy of each Occupant's documentation in a file available to the City on request, subject to compliance with applicable privacy laws. The Income of any person occupying a Residential Unit as his or her principal residence will be included for the purpose of determining the Occupant's Income.

2. **Initial Housing Charges.** The average Housing Charge for each Residential Unit payable by the first Occupants will be not less than the amounts set forth below, unless otherwise agreed to in writing by the parties, or required by the terms and conditions of Schedule G.

Table 1: 1st Avenue Building

Unit Type	"Income Tested" or Shelter Rate Units	HILs Units	Low-End of Market Units	Total
Number of Studio Units				35
Number of 1-Bedroom Units				27
Number of 2-Bedroom Units				44
Number of 3-Bedroom Units				29
Total	10	54	71	135
Average rent/month				

Table 2: Main Street Building

Unit Type	"Income Tested" or Shelter Rate Units	HILs Units	Low-End of Market Units	Total
Number of Studio Units				10
Number of 1-Bedroom Units				10
Number of 2-Bedroom Units				10
Total	0	30	0	30
Average rent/month				

3. **Increases.** The Operator will increase the monthly Housing Charges, parking and other fees charged by such amounts and at such times as applicable law and market circumstances allow, both when Occupancy changes and during the currency of an Occupancy Agreement, with the objective of maximizing the income generated by the Lands and the Buildings, but without compromising the overall objective of the parties to provide affordable housing in the Buildings. Changes to the Housing Charges payable should also be made to reflect changes in an Occupant's Income or Assets to the extent applicable legislation and the Occupancy Agreement allow.

4. **Determination of Shelter Rate Unit Housing Charge.** The Shelter Rate Unit Housing Charge for the applicable family size, which assumes that a Shelter Rate Unit Occupant is in receipt of Income Assistance, will be set at:
 - a. the amount of the current maximum Provincial monthly shelter allowance calculated in accordance with Schedule A of the Employment and Assistance Regulation passed pursuant to the *Employment and Assistance Act* (British Columbia), as amended or replaced from time to time; provided, however, that:
 - b. only one allowance for utilities per Residential Unit can be used in calculation of the Shelter Rate Unit Housing Charge;
 - c. if the Occupant is a single person, the Shelter Rate Unit Housing Charge will be based on the Income Assistance shelter component for a single person;
 - d. if the Occupant consists of two related persons (e.g. married, common-law relationships), the Shelter Rate Unit Housing Charge will be based on the Income Assistance shelter component provided for two related persons;
 - e. if the Occupant consists of two unrelated persons, the Shelter Rate Unit Housing Charge will be based on two times the Income Assistance shelter component for single persons;
 - f. if the Occupant consists of more than two persons, the Shelter Rate Unit Housing Charge will be calculated based on the number of Occupants and their relationship as per Clauses 4.d and 4.e above; and

- g. if the maximum shelter component of Income Assistance changes, the Shelter Rate Unit Housing Charge will be changed at the same time after reasonable notice to the Occupant.

SCHEDULE G - PERFORMANCE STANDARDS

The Operator is required to operate the Lands and the Buildings in accordance with this Agreement. The City may request performance plans from the Operator from time to time as deemed necessary (but no more frequently than once per Fiscal Year), and at any time if an Event of Default occurs in respect of the Operator and the City elects to intervene as contemplated by this Agreement, rather than to terminate this Agreement. The management areas to be included in the performance plan will include, but are not limited, to:

A. RISK MANAGEMENT

1. Establish conflict of interest and standards of conduct policies.
2. Establish telecommunications with reliable message capabilities during office hours, and a 24-hour emergency line.
3. Ensure regular inspections are carried out to ensure safety hazards are identified and corrected.
4. Retain records on site pertaining to the annual inspection, testing or maintenance of fire protection systems including smoke alarms, and the review of the fire safety plan.
5. Maintain a fire safety plan which includes policies and procedures for:
 - a. control of combustibles around the perimeter of buildings;
 - b. protection of emergency equipment;
 - c. storage and housekeeping;
 - d. laundry lint trap, room and vent cleaning; and
 - e. staff assistance for Building residents who cannot self-rescue.

B. MANAGEMENT OF THE LANDS AND THE BUILDINGS

1. Manage and operate the Lands and the Buildings in a proper, efficient and timely manner as would a prudent operator of similar property.
2. Meet all statutory and corporate obligations applicable to the Operator in performing its obligations under this Agreement, including but not limited to, the requirements of these British Columbia Acts and the successor legislation: *Personal Information Protection Act*, *Freedom of Information and Protection of Privacy Act*, *Workers Compensation Act*, *Tobacco Control Act*, *Human Rights Code*, and associated regulations, and obligations under all contracts the Operator enters into in connection with the Lands and the Buildings and the requirements of any insurer of the Lands and the Buildings.
3. Ensure that the Lands and the Buildings comply with all applicable statutory health and safety standards to ensure the health and safety of persons at or near the workplace, including ensuring that fire inspections are carried out regularly by the appropriate authorities.
4. Use reasonable efforts to maintain full occupancy of the Residential Units and select Building residents as set out in Schedule D.
5. Administer annual and routine inspection of all Residential Units in compliance with the *Residential Tenancy Act* (British Columbia), City and municipal bylaws, and cyclical requirements using standardized forms.
6. Maintain the level of staff presence in the Buildings appropriate to the needs of the Building residents and the Lands and the Buildings to:
 - a. provide safety and security; and
 - b. maintain staff presence at the main access point for the Buildings during the Operator's regular business hours and an on-call contact twenty-four (24) hours a day, seven days a week.
7. Administer a pest management program and respond to resident requirements for Residential Unit-specific applications in compliance with current legislation.

8. Landscaping:
 - a. Follow sound landscape management practices.
 - b. Maintain all site vegetation to landscaping standards and regional regulations.
 - c. Maintain hard surface areas.
 - d. Facilitate minor landscaping upgrades (e.g., retaining walls, fences, pathways/roadways/parking areas, and minor tree root removal).
 - e. Understand local and provincial requirements for weed and pest control, and modify practices to meet changing requirements. All pesticide use will comply with the safe pesticide application regulations and licensing in accordance with Workplace Hazardous Materials Information System (WHMIS).
 - f. Repair and maintain irrigation mechanical systems including seasonal and periodic maintenance.
 - g. Recommend landscaping improvements or modifications to the City for consideration for capital upgrades.
9. Snow and Ice Removal:
 - a. Comply with City bylaws for snow removal and ice treatment.
 - b. Maintain common walkways and egresses to meet minimum safety and access requirements for Building residents and emergency services.
 - c. Maintain site surface drainage.
 - d. Manage ice and snow build-up on building envelope (e.g., roofs, overhangs, and icicle removal).
10. Building Maintenance:
 - a. Maintain routine building maintenance and preventive maintenance programs for the Lands and the Buildings which will include:
 - i. exterior maintenance will include roof drain and gutter cleaning, cyclical window washing, care and maintenance of exterior finishes, re-lamp, graffiti removal and identification/elimination of hazards; and
 - ii. interior maintenance will include mechanical and electrical systems, HVAC, elevators, interior finishes, containment and identification/elimination of hazards, key storage systems, lock devices, enter-phone systems, fire annunciation and sprinkler systems, video surveillance systems, and alarm systems.
 - b. Comply with government-regulated waste management practices.
 - c. Provide routine waste removal service (e.g., litter pick-up, abandoned household goods, etc.).
11. Janitorial:
 - a. Provide routine and cyclical cleaning to common areas.
 - b. Comply with legislated standards governing storage, usage of products and equipment, and personal protection equipment.
12. Energy Management:
 - a. Repair and replace equipment with Energy Star rated products.
 - b. Maintain the Lands and the Buildings so as to minimize any increase in water and energy consumption. Recommend energy enhancements to the City.
 - c. Ensure regular inspections of work areas to ensure safety hazards are identified and corrected.
13. Building Services:
 - a. Maintain laundry service contracts/equipment including ventilation systems.
14. Laundry:
 - a. The Operator will provide pay-per-use self-service washers and dryers for use by Building residents.
 - b. Hot water is to be used to clean laundry and control infections.

C. MAINTENANCE CAPITAL REPAIR & REPLACEMENT

1. Maintain the Lands and the Buildings in a satisfactory state of repair fit for habitation and perform all maintenance and repair work described in, but not limited to, the

- Maintenance Plan and Capital Asset Plan.
2. Establish procedures to maintain the value and prolong the life of the Capital Asset Plan, reduce replacement costs and eliminate/reduce safety hazards where reasonably practical to do so.
 3. Prepare and deliver a Replacement Reserve Study as and when required by this Agreement.
 4. Ensure that the necessary skills and tools are available to implement the Capital Asset Plan adequately and safely.
 5. Ensure that all tenders or bids that it calls for work on the Capital Asset Plan in the amount of \$50,000.00 or more are received in writing and records of all bids and tenders are maintained. Tenders and bids under the amount of \$50,000.00 may be called for verbally but written records of the quotations so obtained must be maintained and made available to the City upon reasonable request. Notwithstanding anything in this Agreement to the contrary, all work deemed by the Operator, acting reasonably, to be required on an emergency basis shall not require tenders or bids. The Operator shall make reasonable efforts to verify that successful bidders are appropriately qualified.
 6. Advise the City immediately if the Operator becomes aware of any structural deficiency in the Buildings, which requires the intervention of the City.

D. HUMAN RESOURCES

1. Comply with all employment standards Acts including provisions relating to the hiring of minors, the *Workers Compensation Act* (British Columbia), Human Rights Code (British Columbia) and other applicable Acts governing employment.
2. Ensure the workforce maintains required licences to provide service as applicable (e.g., drivers license, FOODSAFE, pesticide licensing, first aid, CPR, WHMIS, and professional certification).
3. Ensure that the staff undergo a criminal record check in accordance with provincial and federal requirements, and keep evidence on file that the criminal record check was completed. The Operator will have a written policy on the frequency of subsequent criminal record checks.
4. At least one staff member certified in Standard First Aid and CPR Level A is on duty at all times.
5. For all staff working with residents in the Buildings, whether part-time or full-time, paid or voluntary, the Operator will:
 - a. have written policies on eligibility, selection, remuneration, training, safety and security. The safety and security policies and procedures must be in accordance with current Occupational Health and Safety Regulations contained under Section 3 of the *Workers Compensation Act* (British Columbia); and
 - b. ensure the staff has the appropriate skills, qualifications, instruction, training and supervision for the tasks that they perform and to work safely. This includes, but is not limited to, an orientation on the Operator's written policies, procedures and the standards related to the management of the Lands and the Buildings and any support services provided to the Occupants thereof, such as (where applicable):
 - i. training for crisis prevention and/or de-escalation, non-violent intervention;
 - ii. prevention of infections;
 - iii. exposure to blood and body fluids, and the safe handling of needles;
 - iv. Resident complaints and dispute resolution process;
 - v. security and confidentiality of resident data;
 - vi. workplace safety, including weapons possession and violent behaviour; and
 - vii. critical incident response: (1) threat or assault to staff and residents; (2) loss of essential services in the event of unforeseen interruption; (3)

fire and other emergency evacuation; (4) containment of infectious outbreaks; (5) medical emergencies; and (6) resident death.

E. FINANCIAL MANAGEMENT AND ADMINISTRATION

1. The Operator will ensure that sound financial operating written policies and procedures are in place, as the requirements set out in Schedule B.

F. RESIDENT MANAGEMENT

- a. The Operator will comply with Schedules D and E.

SCHEDULE H - OCCASIONAL THIRD PARTY USE POLICY

1. Purpose of Policy

The purpose of this occasional third party use policy (the "Policy") is to provide for occasional use of the _____ *[NOTE: Insert description of the portion(s) of the Building that may be used pursuant to this policy]* of the Building by third parties at various times in order to generate earned revenues which will assist the Operator in supporting its operations.

2. Amendments

This Policy shall not be amended unless the City and the Operator agree to any amendment in writing.

3. Operator Liable for Actions of Third Parties

Without limiting anything else contained in the Agreement, the Operator shall at all times be fully responsible for the actions of any third party that the Operator permits to use the Premises. If those actions result in any damage or loss to the Premises or if the City sustains any loss of any kind due in whole or in part to such actions, the Operator shall repair the damage or loss to the City's satisfaction and shall indemnify the City for any loss it might sustain due in whole or in part to such actions.

The Operator shall ensure that the Operator's insurance is adequate to protect the Operator for the actions of third parties.

4. Use by Third Parties

Any use by third parties of all or any portion of the Premises shall:

- (a) not be a subletting but shall only be a license to use on the terms set out in the Rental Agreement (hereinafter defined); and
- (b) be no longer than _____ () consecutive days, except with the prior approval of the City.

5. Rental Agreement

Before the Operator permits a third party to use all or any portion of the Premises, the Operator shall enter into a written agreement with the third party (the "Rental Agreement"). At a minimum the Rental Agreement shall contain the following information and requirements:

- (a) the full and correct legal name, address, contact name and telephone number of the third party;
- (b) identification of which area(s) of the Premises is/are to be used by the third party;
- (c) the purpose for which the area(s) is/are to be used by the third party;
- (d) the amount of the fee being paid by the third party including the amount of the deposit, if any;

- (e) the duration of the Rental Agreement;
- (f) proposed additional janitorial and security arrangements if such additional arrangements seem reasonably necessary in view of the proposed use; and
- (g) an obligation on the third party to comply with all federal, provincial or civic statutes, by-laws, regulations and orders in force at the time of execution of the Rental Agreement or thereafter relating to the Premises and the third party's use of the Premises.

6. No Occupation by Third Party Until Certain Conditions Met

The Operator shall not permit any third party to occupy all or any portion of the Premises unless:

- (a) the third party has executed the Rental Agreement;
- (b) the third party has satisfied all the preconditions set out in the Rental Agreement; and
- (c) obtain the written consent of the City, which consent is in the sole discretion of the City.

7. Policy Part of Agreement

As this Policy forms part of the Agreement, default by the Operator in its obligations enumerated in this Policy is default under the Agreement.