



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: July 19, 2019
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RTS No.: 13312
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Meeting Date: July 23, 2019

TO: Vancouver City Council

FROM: CEO Vancouver Affordable Housing Agency ("VAHA") in consultation with the General Manager of Real Estate and Facilities Management

SUBJECT: 1190 Burrard Street – Lease Terms

IN CAMERA RATIONALE

This report is recommended for consideration by Council on the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the city; and (k) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the city if they were held in public.

RECOMMENDATION

- A. THAT Council authorize the CEO of Vancouver Affordable Housing Agency Ltd. ("VAHA") to negotiate and execute a Development Agreement with the Community Land Trust Foundation of British Columbia ("CLT") for the development of a non-market housing project (the "Project") at the City-owned site at 1190 Burrard Street , legally described as:
- PID: 015.484.238, Lot B (Reference Plan 1606) of Lots 17 to 19, Block 90 District Lot 541, Plan 210
 - PID: 015.484.203, Lot 16, Block 90, District Lot 541, Plan 210
 - PID: 015.484.220, Lot C (See 428984L) of Lots 17 to 19, Block 90, District Lot 541, Plan 210
 - PID: 015.484.211, Lot A (See 428984L) of Lots 17 to 19, Block 90, District Lot 541, Plan 210
 - PID: 015.484.181, the South 1/2 of Lot 15, Block 90, District Lot 541, Plan 210

(collectively the “Property”) which agreement will:

- i. obligate CLT to perform all remaining design and other pre-development work for the Project;
- ii. commit CLT to reimburse the City for any pre-development costs funded by the City as part of the Lease
- iii. commit the City to paying for the incremental costs of remediating environmental contamination at the Property;
- iv. establish the following conditions to execution of the lease described in Recommendation B:
 1. the approval by the City of a project pro forma submitted by CLT incorporating current financial information (including all sources of required debt and equity financing), a market rent analysis completed within the previous six months and Class A or B construction cost estimates and demonstrating that the Project will meet or exceed the affordability requirements for the Project set out in Recommendation B;
 2. the development permit prior-to letter for the Project has been issued or is issuable; and
 3. CLT has obtained commitment letters, letters of intent and/or memorandums of understanding in respect of all required project equity and debt financing on terms and conditions approved by the City;

And which will otherwise be in accordance with the terms and conditions outlined in this report and to the satisfaction of the General Manager of Arts, Culture and Community Services, the General Manager of Real Estate and Facilities Management, the Director of Finance, and the Director of Legal Services.

- B. THAT Council authorize the Director of Real Estate and Facilities Management to negotiate and execute a ground lease, (the “Lease”) for the Property with CLT, or at the request of CLT, a wholly-owned subsidiary of CLT provided that CLT will remain liable for all obligations of such subsidiary as guarantor, to enable the development of non-market housing projects, subject to CLT satisfying the conditions described in Recommendation A, which ground lease will provide for:
- i. A term of 99 years;
 - ii. A nominal prepaid rent;
 - iii. A minimum of 20% of the units must be rented at shelter rates
 - iv. A minimum of 50% of the units with rents required not to exceed 1/40th of the then current Housing Income Limits as published by the British Columbia Housing Management Commission for the applicable unit type (HILs);

- v. A maximum of 30% of the units must be rented at or below 90% of appraised market rent in a comparable area or, in the absence of comparable units, CMHC's Rental Survey for Vancouver for the applicable year of construction, currently the 2005+ category;
- vi. Or such other deeper levels of affordability and/or affordability targets, as may be determined by the General Manager of Arts, Culture and Community Services and the Director of Finance, if such requirements do not compromise the ability of the project to raise capital funding and financing and the long-term financial viability of the project;
- vii. A set of conditions CLT must meet prior to commencing construction and that if not met within a defined reasonable time will result in them being in default of the lease, including:
 - 1. The approval by the City of a project pro forma submitted by CLT incorporating current financial information (including all sources of required debt and equity financing), a market rent analysis completed within the previous six months and Class A construction cost estimates and demonstrating that the Project will meet or exceed the affordability requirements set out in the Lease;
 - 2. the Lands have been rezoned for the Project; and
 - 3. CLT has entered into legally binding agreement in respect of all required project equity and debt financing on terms and conditions approved by the City;
- viii. Reporting requirements, including rent, affordability, and occupancy statistics and any additional financial or non-financial information required to support a better understanding of the housing operation including audited financial statements and a periodic building condition report;
- ix. A requirement to create, implement and comply with a capital asset plan;
- x. A requirement to maintain a capital replacement reserve at a level of funding determined by an independent third party consultant with relevant expertise and approved by the City;
- xi. A requirement that operating surplus generated from the project:
 - 1. first, be used to create and maintain a reserve for the purpose of stabilizing annual variances in operating income and operating expenses;
 - 2. second, be divided equally among the partners, with CLT's portion to be used to increase the affordability of HILs units in the building or increase the number of HILs units, or create or acquire net new, social housing within Vancouver and with BC Housing's portion to be reinvested in affordable housing projects in Vancouver under the new Vancouver Affordable Housing Endowment Fund (or other affordable housing projects in Vancouver that BC Housing and the City both support, and as

agreed to by the City), subject to approval from its Executive Committee and/or Board of Commissioners.

It is understood that there is not expected to be any operating surplus distributed to the partners during the term of any operating subsidies from BC Housing as any such surplus will be used to reduce the operating subsidy required by the project.

- xii. An option in favour of the Provincial Rental Housing Corporation (“BC Housing”) to assume the rights and obligation of the lessee in the event of specified defaults as contemplated by the City’s Standard Lease Charge Term for bare land leases of this kind;
- xiii. An option to sublease back to the City the second floor non-profit space within the Project, which sublease will provide for:
 - 1. A term which is the term of the ground lease less a day;
 - 2. A nominal prepaid rent; and
 - 3. Such other terms and conditions as are satisfactory to the General Manager of Arts, Culture and Community Services, General Manager of Real Estate and Facilities Management and Director of Legal Services.

And which will otherwise be in accordance with the terms and conditions outlined in this report and to the satisfaction of the General Manager of Arts, Culture and Community Services, the General Manager of Real Estate and Facilities Management, the Director of Finance, and the Director of Legal Services.

The proposed lease at a nominal rent constitutes a grant and requires 8 affirmative votes of Council, per Section 206(1) of the Vancouver Charter.

- C. THAT Council’s decision to commence negotiations and execute the Lease will not, in any way, limit Council or the City and its officials (including the Approving Officer) in exercising their regulatory discretion in respect of any rezoning, subdivision or consolidation or permitting of or for the Properties.
- D. THAT no legal rights or obligations will arise or be created by Council’s adoption of Recommendation A unless and until all legal documentation has been executed and delivered by the respective parties.

REPORT SUMMARY

This report seeks Council authorization to enter into agreements with CLT to develop a 133 unit non-market social housing project at 1190 Burrard Street with ground floor retail and a second floor non-profit space tentatively being sublet to QMUNITY (a non-profit society), subject to various lease execution and construction green light conditions. The Project is dependent on a future rezoning and on funding from BC Housing, including a capital grant, mortgage financing and ongoing operating subsidies.

The proposed nominal lease to CLT to allow development of the project constitutes a grant. Execution of the lease in advance of construction green-light will facilitate CLT funding pre-development work with support from BC Housing. Should the construction green-light conditions not be met the lease can be cancelled with CLT and BC Housing at risk for any pre-development work.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

In March 2017, Council designated VAHA to enable the development of affordable housing on eight (8) City-owned and optioned sites.

In July 2017, Council was informed of the issuance of Request for Proposals (RFP) to design, build, fund and operate rental housing on some of the City land that were designated by Council to VAHA to act as agent of the City to enable the development of affordable housing.

On April 17, 2018, Council approved the selection of the CLT as the successful proponent to RFP PSVAHA2017-04 and authorized the CEO of the Vancouver Affordable Housing Agency to negotiate terms of development agreements and leases with the Community Land Trust to design, build, fund/finance, operate and maintain affordable housing on the subject properties. Council directed the CEO of VAHA to bring the final terms negotiated with the CLT back to Council for final approval.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager, General Manager of Arts, Culture and Community Services and the General Manager of Real Estate and Facilities Management recommend APPROVAL of the foregoing recommendations.

REPORT

Background/Context

In line with the Housing Vancouver Strategy, the City is working closely with partners across the housing sector and the development industry to advance the delivery of social and affordable housing. This project will contribute towards the Strategy's target of 12,000 social and supportive housing units.

In July of 2017, VAHA issued three RFPs seeking a proponent to finance, build, operate and maintain social housing on the seven City owned properties, including the subject properties. On April 17, 2018, Council approved the selection of the CLT as the successful proponent of all three RFPs.

The selection of the CLT as the successful proponent to finance, build, operate and maintain social housing for all seven properties included in the RFPs created the opportunity to manage the projects as a Portfolio, improving overall affordability and revenue generation across the seven projects. The Portfolio is to be governed by Development Agreements, with the subject properties subject to the lease, as described in this report.

Strategic Analysis

Site and Property Description

The Property at 1190 Burrard Street, acquired for s.17(1) in 2016 using development cost levies (DCLs) allocated to housing, is located in the Downtown South neighbourhood at the junction of Davie Street and Burrard Street, overlooking Davie Village. The neighbourhood is a high-density residential and mixed-use community containing, or within walking distance to, offices, shops, restaurants, cultural facilities, parks, beaches, and health facilities.

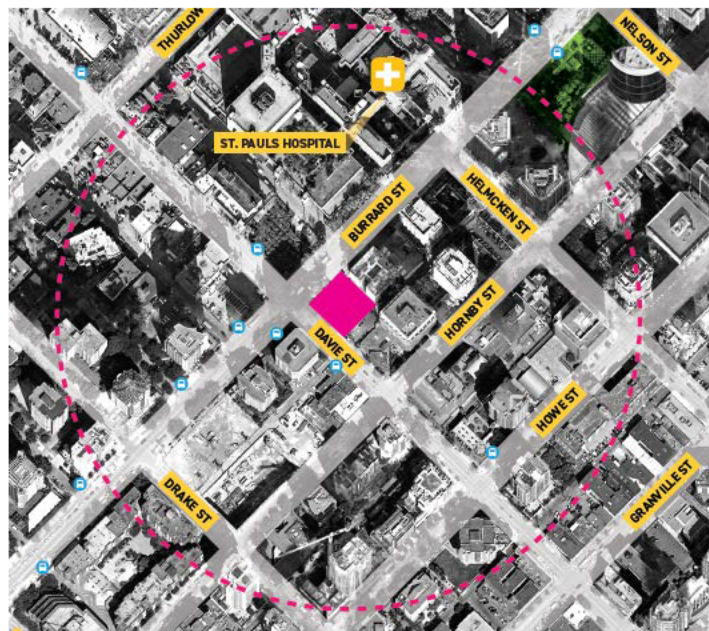
The neighbourhood is well-connected with multiple transportation modes available. The #6 bus serving the length of Davie Street has stops in each direction on the same block as the site. Granville Street is three blocks away and is served by #4, #7, #10, #14, #16 and #50 bus routes. There is a stop for the #2, #32, #44 bus running along Burrard Street.

It is proposed to rezone the Property from DD-M to CD-1 with a FSR of 9.28. In addition to observing setbacks on the form of the development, the massing form is primarily informed by the most restrictive view cone over the site, B1 'Charleson Seawall to the Lions'.

Property Features

The Property is currently occupied by one and two-storey commercial retail buildings which include restaurants, and cover approximately 30% of the site, with the remaining 70% occupied by a paved parking area. Some of the units have already been vacated. There are no occupied residential units on-site.

The Property is flanked on two sides by Burrard and Davie Streets, with the lane on the third side. It slopes downwards from its Burrard Street frontage to the lane by approximately 1.60m. The fourth side abuts the development at 1160 Burrard Street. The Property is serviced for all utilities, including hydro, water, storm and sanitary sewer, natural gas and telephone.



The development proposal consists of the following components:

- 139 Units – 61 studio, 29 1BR, 30 2BR and 19 3BR (35% family)
- 17-storey overall with 15 storey mass-timber building over 2 storey concrete podium;
- Ground floor retail and 2nd floor space for QMUNITY
- 3 levels parking providing 55 spaces, no car share stalls proposed currently;
- Secured storage for 283 bike spots.

VAHA is working with CLT to bring the project forward to rezoning, and development permit issuance in Q2/Q3 of 2020, with Building Permit issuance shortly thereafter. It is anticipated that the building could be completed by Q1 2023.

Affordability

Affordability targets reflecting the minimum requirements that CLT must meet will be set out in the lease. The range of housing offered in the development is outlined below:

1. A minimum of 20% of the units must be provided at shelter rates.
2. A minimum of 50% of units are required to charge rents that do not exceed 1/40th of HILs for the applicable unit type.
3. A maximum of 30% of the units will be at the Low End of Market (LEM) which is rented at or below 90% of the appraised market rent for a comparable unit in the local area or, in the absence of comparable units, CMHC's Rental Survey for Vancouver for the applicable year of construction.

This level of affordability is enabled and required by the potential funding provided through the BC Housing's Community Housing Fund (CHF) including both capital and operating subsidies. The project has received 'A' letters under CHF funding program, meaning funding has been allocated for the projects, but not approved. VAHA and CLT will work with BC Housing to advance the project through each stage (Preliminary Development Funding, Preliminary Project Approval, Final Project Approval) and the BC Housing Board will approve specific grant amounts and financing based on project's needs and due diligence at each stage.

Staff will work with CLT and funders to provide a spread of affordability across each of the unit types and secure that in the final lease terms, subject to the proforma and project feasibility.

Financial Implications

The typical funding model for social housing projects entails leasing City land to housing partners at below market or nominal rent for 60 years or longer, who will design, build, finance, operate and maintain the housing project at prescribed affordability over the lease term. Depending on the target affordability, projects may require additional equity contributions from senior governments, foundations and charities.

For this project, CLT has applied to BC Housing for both grants and mortgage financing; the current pro forma also indicates that the project will be dependent on an ongoing operating subsidy from BC Housing to make the housing project financially sustainable while achieving the affordability target over the term of the project. The project will not be able to proceed without confirmation of all funding and financing from BC Housing.

The following table summarizes the current estimated overall development costs and forecast contributions. The development costs and corresponding funding and financing will be reviewed and updated as part of the approval process prior to executing the lease and again prior to permitting construction.

Table 1: Development summary

Estimated Development Costs (\$ million)	
Land lease (99 years)	s.17(1)
Development	
Total	
Forecast Contributions (\$ million)	
City of Vancouver (99 year nominal lease)	
Development Charge Exemption (municipal)	
Development Charge Waiver (regional)	
BC Housing Community Housing Fund	
City of Vancouver contribution for QMUNITY	
Proceeds for sale of CRU	
Mortgage financing	
Total	

The current estimated fair market (freehold) value of the site is s.17(1) and a 99-year lease is typically priced at 95% of the freehold value as such the City's nominal land lease represents an up to s.17(1) benefit to CLT from not having to purchase a comparable site in the private market to develop the affordable housing project. The below market lease constitutes a grant and approval requires eight affirmative votes of Council, per Section 206(1) of the Vancouver Charter.

The following table summarizes the estimated cost of each residential unit including and excluding land value.

Table 1: Estimated Costs / Residential Unit

	Land (\$)	Construction (\$)	Total (\$)
Studio	s.17(1)		
1-bedroom			
2-bedroom			
3-bedroom			

Note: The estimated residential cost per unit by type above is based on current available information on capital costs and design parameters, both of which are in the process of being optimized, so most of these rates are expected to vary accordingly.

Lease execution is contingent on CLT having secured all required funding and financing to deliver a viable project and demonstrating project viability over the term of the lease at the target affordability in an updated pro-forma which reflects project costs (capital and operating), financing rates, and rent levels.

In addition, CLT is required to provide an updated pro-forma reflecting the above information and demonstrating project viability (including operational viability) prior to the City permitting construction. In the event, that CLT is not able to demonstrate project viability, the City has the authority to cancel the lease. However, COV and CLT will work collaboratively to avoid this outcome.

In the event that the Lease defaults, BC Housing could consider taking over the lease and/or working with the City to find an alternative operator for what will be a shovel-ready project. If BC Housing provides preliminary development funding for this project and the project does not proceed due to failure of any of the above conditions, BCH would seek its proportionate share of the pre-development costs incurred from CLT. Any pre-development cost funded by VAHA will be reimbursed by CLT as part of the project development costs. The City is funding development of the community non-profit space with the existing approved capital budget for the project. Any other pre-development cost funded by VAHA will be reimbursed by CLT as part of the project development costs.

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

The form of the Lease will be based on the City's standard practice for Social Housing including the key terms included in recommendation A and include terms on the allocation of any operating surplus arising from the project.

While it is understood that there is not expected to be any operating surplus distributed to the partners during the term of any operating subsidies from BC Housing as any such surplus will be used to reduce the operating subsidy required by the project. Any potential future surplus which is to be divided equally between the partners, with CLT's portion to be used to increase the affordability of HILs units in the building or increase the number of HILs units, or create or acquire net new, social housing within Vancouver and BC Housing's portion also to be reinvested in affordable housing projects in Vancouver under the new Vancouver Affordable Housing Endowment Fund (or other affordable housing projects in Vancouver that BC Housing and the City both support, and as agreed to by the City), subject to approval from its Executive Committee and/or Board of Commissioners.

Environmental Considerations

It is possible that contamination is present on this site and further investigation is needed. In the event that contamination is present, the City will be responsible for the management and costs associated with any works required under the Contaminated Sites Regulation (CSR).

CONCLUSION

Approving authority for the City to negotiate and execute the proposed development and agreements with CLT with advance the opportunity to develop a 133 unit non-market social housing project at 1190 Burrard Street, including ground floor retail and a second floor space tentatively designated for QMUNITY, subject to various lease execution and construction green light conditions. While the Project is dependent on a future rezoning and on funding from BC Housing, including a capital grant, mortgage financing and ongoing operating subsidies, execution of the lease in advance of construction green-light will facilitate CLT funding pre-development work with support from BC Housing.

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