

IN-CAMERA COUNCIL MEETING

JULY 23, 2019

DECISION RELEASE

1190 Burrard Street – Lease Terms

- 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 B below:
 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 B below;
 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 A above, 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; and
 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 A above, unless and until all legal documentation has been executed and delivered by the respective parties.

* * * * *