

CITY OF SURREY

BY-LAW NO.14401

A by-law to authorize the City of Surrey to enter into a housing agreement.

.....

WHEREAS the City of Surrey has received an application to enter into a housing agreement

AND WHEREAS Section 905 of the Local Government Act, R.S.B.C. 1996 c.323, as amended (the "*Local Government Act*"), empowers the Council or the City of Surrey to enter into a housing agreement;

NOW, THEREFORE, the Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. The City of Surrey is hereby authorized and empowered to enter into a housing agreement in the form attached hereto as Schedule A and forming part of this By-law (the "Housing Agreement") with the following party:

VANCITY ENTERPRISES LTD. (Inc. No. 359740)  
950 - 1050 West Pender Street  
Vancouver, B.C.  
V6E 3S7

and with respect to that certain parcel or tract of lands and premises, situate lying and being in the City of Surrey, in the Province of British Columbia and being more particularly known and described as:

Parcel Identifier: 017-964-181  
Lot 12, Section 19, Township 2, New Westminster District, Plan LMP 5880

(7560 - 120 Street)

(the "Lands")

2. The Mayor and Clerk are hereby empowered to execute the Housing Agreement on behalf of the City of Surrey.

3. The City of Surrey shall file in the Land Title Office a notice against the Lands in accordance with Section 905 of the Local Government Act, that the Lands are subject to the Housing Agreement.
  
4. This By-law shall be cited for all purposes as "Vancity Enterprises Housing Agreement, Authorization By-law, 2001, No. 14401."

PASSED THREE READINGS on the 30th day of April, 2001.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 7th day of May, 2001.

\_\_\_\_\_ MAYOR

\_\_\_\_\_ CLERK

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# Schedule A

LAND TITLE ACT  
FORM C  
(Section 233)  
Province of  
British Columbia

GENERAL INSTRUMENT -- PART 1

(This area for Land Title Office use)

PAGE 1 of 8- pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

(No. 7900-0313-00)

signature of applicant, applicant's solicitor or agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*

[PID]

[legal description]

017-964-181

Lot 12 Section 19 Township 2 NWD Plan LMP5880

3. NATURE OF INTEREST:\*

DESCRIPTION

DOCUMENT REFERENCE  
(page and paragraph)

PERSON ENTITLED TO INTEREST

Housing Agreement

Entire Instrument  
Pages 3 - 8

Transferee

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):\*

**VANCITY ENTERPRISES LTD.** (Inc. No. 359740), 950 - 1050 West Pender Street, Vancouver,  
B.C. V6E 3S7

6. TRANSFEREE(S): (including postal address(es) and postal code(s))\*

**CITY OF SURREY**, a city under the *Local Government Act* of the Province of British Columbia,  
and having its City Offices at 14245 - 56<sup>th</sup> Avenue, in the City of Surrey, in the Province of  
British Columbia, V3X 3A2

7. ADDITIONAL OR MODIFIED TERMS:\*

N/A

8. EXECUTION(S)\*\*: This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
_____	2001			Transfer(s) Signature(s) <b>VANCITY ENTERPRISES LTD.</b> by its authorized signatory(ies):
(as to the signature of _____)				Name: _____
_____	2001			Name: _____
(as to both signatures for City of Surrey)				<b>CITY OF SURREY</b> by its duly authorized signatories:
				_____ Murray Dinwoodie, General Manager, Planning & Development Department
				_____ Donna Kenny, Acting City Clerk

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

- \* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
- \*\* If space insufficient, continue executions on additional page(s) in Form D

**TERMS OF INSTRUMENT – PART 2**

THIS AGREEMENT made this \_\_\_\_ day of April, 2001.

BETWEEN:

**CITY OF SURREY**, having its municipal office at 14245- 56<sup>th</sup> Avenue,  
Surrey, British Columbia, V3X 3A2

(hereinafter called the "City")

OF THE FIRST PART

AND:

**VANCITY ENTERPRISES LTD.**, incorporated under the laws of the  
Province of British Columbia and having a business address at  
950 - 1050 West Pender Street, Vancouver, B.C. V6E 3S7

(hereinafter called "VCE")

OF THE SECOND PART

WHEREAS:

A. VCE and/or the Registered Owner of the Lands has entered into an agreement to acquire those certain lands and premises located at 7560 - 120<sup>th</sup> Street, in the City of Surrey, in the Province of British Columbia, and legally described as:

Parcel Identifier: 017-964-181  
Lot 12  
Section 19  
New Westminster District  
Plan LMP 5880

(the "Lands");

B. VCE and/or the Registered Owner of the Lands proposes to develop the Lands with buildings having residential strata lots for occupancy by Qualified Occupants;

C. VCE has requested the City to issue Development Variance Permit No. 7900—0313-00 (the "DVP") reducing the required number of parking stalls from 121 to 79 pursuant to Part V, Section B.7(a) of Surrey Zoning By-law 1979, No. 5942, as amended, and it is a condition of the issuance of the DVP that the parties enter into this Agreement in order to restrict the occupancy of the dwelling units to be constructed on the Lands as provided in this Agreement; and

D. Section 905 of the *Local Government Act* of British Columbia, R.S.B.C. 1996, c.323, as amended, (the "*Local Government Act*") authorizes the City, by by-law, to enter into a housing agreement.

WITNESSETH THAT in consideration of the premises and the respective covenants and agreements of the parties as hereinafter set out and the sum of One Dollar (\$1.00) and other good

and valuable consideration paid by the City to VCE (the receipt and sufficiency of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

## I DEFINED TERMS AND SCHEDULES

- 1.1 In and for the purposes of this Agreement, the following terms shall have the following respective meanings:
- (a) "Family" means a minimum of two persons having an aggregate household income which satisfies the eligibility criteria established by British Columbia Housing Management Commission from time to time for access to affordable housing in the City of Surrey and must include at least one dependent child, regardless of the age of such child, at the time of occupancy;
  - (b) "Housing Unit" means any dwelling unit constructed by VCE upon the Lands but does not include a Resident Manager's Housing Unit;
  - (c) "Person with Disability" means a person who, in the written opinion of a medical doctor or registered psychologist, has a significant permanent disability that cannot be significantly permanently improved by medical treatment and that produces a loss or impairment of physical or mental ability and who, together with any person residing with him or her or together with other members of his or her Family, has an aggregate household income which satisfies the eligibility criteria established by British Columbia Housing Management Commission from time to time for access to affordable housing in the City of Surrey;
  - (d) "Qualified Occupant" means Families and Persons with Disabilities and includes a person residing with a Person with Disability and "Qualified Occupants" means all persons who qualify as a Qualified Occupant;
  - (e) "Registered Owner of the Lands" means, at any given time, the then registered owner, or if more than one registered owner, the then registered owners of the Lands;
  - (f) "Resident Manger" means a person employed by the Registered Owner of the Lands, or VCE, to manage the Housing Units, who resides in a Resident Manager's Housing Unit and his or her spouse and children;
  - (g) "Resident Manager's Housing Unit" means a Housing Unit occupied by a person employed by the Registered Owner of the Lands, or VCE, to manage the Housing Units and his or her spouse and children;
  - (h) "Term" shall mean the period commencing on the date of this agreement and continuing in full force and effect in perpetuity; and
  - (i) "this Agreement" means this housing agreement and any amendments or modifications of same.
- 1.2 The captions, section numbers and article numbers appearing in this Agreement are inserted for convenience of reference and shall in no way define, limit, construe or describe the scope or intent of this Agreement or in any way affect this Agreement.

- 1.3 Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and words importing persons shall include firms and corporations and vice versa.
- 1.4 Unless otherwise stated, a reference in this Agreement to a numbered or lettered article, section, paragraph or clause refers to the article, section, paragraph or clause bearing that number or letter in this Agreement.
- 1.5 The words "hereof", "herein", "hereunder", and similar expressions used in any section, paragraph or clause of this Agreement shall relate to the whole of this Agreement and not to that section, paragraph or clause only unless otherwise expressly provided.

## II OCCUPANCY OF UNITS RESTRICTED TO QUALIFIED OCCUPANTS

- 2.1 During the Term no Housing Unit other than a Resident Manager's Housing Unit may be occupied by any person who is not a Qualified Occupant. The City may from time to time request the Registered Owner of the lands or VCE, to provide written proof of compliance with this paragraph and the Registered Owner of the lands and VCE agree to provide the City with such proof in a form reasonably satisfactory to the City.
- 2.2 If the Registered Owner of the Lands or VCE fail to enforce compliance with the terms and conditions of paragraph 2.1, then it is specifically understood and agreed that the City shall be entitled, but shall not be obliged, to enforce the terms and conditions of Section 2.1. For the purposes of this Agreement, the Registered Owner of the Lands, or VCE, without the need of further authorization, writings or documents, hereby irrevocably appoints the City as its or their agent with respect to the enforcement of this Agreement and with respect to exercising all remedies set out in this Agreement and all other remedies available at law to the Registered Owner of the Lands, or VCE.
- 2.3 Without in any way limiting the provisions of paragraph 2.2 above, the City shall be entitled to charge, and the Registered Owner of the Lands and VCE jointly and severally, agree to pay, for each Housing Unit, a monthly charge equal to the average monthly fair market rental rate for dwelling units of similar size in the City of Surrey as determined from time to time by the British Columbia Housing Management Commission, for each month or portion thereof during which a Housing Unit is occupied by a person other than a person or persons qualified to occupy a Housing Unit under the terms of this Agreement, in addition to all other remedies available at law to the City.

## III LIABILITY

- 3.1 The Registered Owner of the Lands, VCE, Qualified Occupants and Resident Managers will indemnify and save harmless the City and each of its elected officials, board members, officers, directors, employees and agents and their respective administrators, successors and assigns, of and from all claims, demands, actions, loans, damages, cost and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of any person to comply with the terms and conditions of this Agreement.
- 3.2 Provided the City is in compliance with the terms and conditions of this Agreement, the Registered Owner of the Lands, VCE, Qualified Occupants, spouses of Qualified Occupants

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and Resident Managers hereby release and forever discharge the City and each of its elected officials, board members officers, directors, employees and agents and their respective administrators, successors and assigns, of and from any and all claims, demands, loans, damages, economic loss, costs and liabilities which any of them now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

#### IV NOTICES

4.1 Any notices or other documents to be given or delivered pursuant to this Agreement will be addressed to the proper party as follows:

(a) as to the City:

14245 -- 56<sup>th</sup> Avenue  
Surrey, British Columbia V3X 3A2

Attention: General Manager of Planning and Development Department

(b) as to VCE:

950 – 1050 West Pender Street  
Vancouver, B.C. V6E 3S7

Attention: President

or such other address in the Greater Vancouver area as the such party may direct by five (5) business days notice in writing to the other parties. Any notice or other document to be given or delivered pursuant to this Agreement will be sufficiently given or delivered if delivered to the particular party at its address set out or determined in accordance with this paragraph and shall be deemed complete two (2) days after the day of delivery.

It is specifically agreed that for any notice or document to be validly given or delivered pursuant to this Agreement such document or notice shall be delivered and not mailed.

#### V GENERAL

5.1 Nothing in this Agreement:

- (a) affects or limits any discretion, rights, powers, duties or obligations of the City under any enactment or at common law, including in relation to the use or subdivision of land; or
- (b) relieves the Registered Owner of the Lands, VCE, Qualified Occupants and Resident Managers from complying with any enactment, including the City's by-laws, in relation to the use or subdivision of the Lands.

5.2 An alleged waiver by a party of any breach by another party of its obligations under this Agreement will be effective only if it is an express waiver of the breach in writing. No waiver of a breach of this Agreement is deemed or construed to be a consent or waiver of any other breach of this Agreement.



- 5.3 Time is of the essence in this Agreement. If any party waives this requirement, that party may reinstate it by delivering notice to another party.
- 5.4 This Agreement shall be construed in accordance with and governed by the laws of the Province of British Columbia.
- 5.5 If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 5.6 Upon request by the City, the Registered Owner of the Lands, VCE, Qualified Occupants, spouses of Qualified Occupants or Resident Managers (as the case may be) will promptly do such acts and execute such documents as the City may reasonably require, in the opinion of the City, to give effect to this Agreement.
- 5.7 This is the entire Agreement between and among the parties concerning the subject matter of this Agreement and there are no warranties, representations, conditions or collateral agreements relating to this Agreement, except as included in this Agreement.
- 5.8 This Agreement may be enforced by prohibitory and mandatory court order of the Court. In any action to enforce this Agreement, the City shall be entitled to Court costs on a solicitor and own client basis.
- 5.9 This Agreement shall enure to the benefit of and be binding upon VCE, the Registered Owner of the Lands and their respective heirs, executors, administrators, trustees, successors and assigns and all parties claiming through them and this Agreement shall enure to the benefit of and be binding upon the City and its administrators, successors and assigns. This Agreement shall charge and run with the Lands and enure to the benefit of and be binding upon the owners from time to time of the Lands and their all parties claiming through such owners. Upon and after subdivision of the Lands by way of strata plan, this Agreement shall also charge and run with each and every strata lot into which the Lands are subdivided and shall enure to the benefit of and be binding upon the owners from time to time of each and every strata lot into which the Lands are subdivided and all parties claiming through such owners and their respective heirs, executors, administrators, trustees, successors and assigns. Upon and after subdivision of the Lands by way of strata plan, this Agreement shall also charge and run with the common property and shall enure to the benefit of and be binding upon the Strata Corporation and all parties claiming through the Strata Corporation. Neither VCE nor the owners from time to time of the Lands and the strata lots shall be liable for any default in the performance or observance of this Agreement occurring after such party ceases to hold an ownership in the Lands or the strata lots.

IN WITNESS WHEREOF VanCity Enterprises Ltd., and City of Surrey have executed this Agreement under seal by their duly authorized officers as of the reference date of this Agreement.

THE COMMON SEAL of VANCITY )  
ENTERPRISES LTD. was hereunto affixed )  
in the presence of: )

\_\_\_\_\_  
Authorized Signatory )

c/s

\_\_\_\_\_  
Authorized Signatory )

THE COMMON SEAL of CITY OF SURREY )  
was hereunto affixed in the presence of: )

\_\_\_\_\_  
Authorized Signatory )

c/s

\_\_\_\_\_  
Authorized Signatory )

**END OF DOCUMENT**