

HOUSING AGREEMENT 1150 MCCLURE STREET BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize an agreement for rental housing for the lands known as 1150 McClure Street, Victoria, BC.

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of The Corporation of the City of Victoria in an open meeting enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "HOUSING AGREEMENT (1150 MCCLURE STREET) BYLAW 2019".**

Agreement authorized

- 2 The Mayor and the City Clerk are authorized to execute the Housing Agreement**
- (a) substantially in the form attached to this Bylaw as Schedule A;
 - (b) between the City and Jesika Leigh Parker or other registered owners from time to time of the lands described in subsection (c); and
 - (c) that applies to the lands known as 1150 McClure Street, Victoria, BC, legally described as:
PID # 008-653-356
Lot 13 Fairfield Farm Estate Victoria City Plan 758

READ A FIRST TIME the **28th** day of **March** 2019

READ A SECOND TIME the **28th** day of **March** 2019

READ A THIRD TIME the **28th** day of **March** 2019

ADOPTED on the day of 2019

CITY CLERK

MAYOR

HOUSING AGREEMENT(Pursuant to Section 483 of the *Local Government Act*)

THIS AGREEMENT, dated for reference January 30, 2019, is entered into by and

AMONG:

THE CORPORATION OF THE CITY OF VICTORIA#1 Centennial Square
Victoria, B.C.
V8W 1P6

(the "City")

OF THE FIRST PART

AND:

JESIKA LEIGH PARKER1150 McClure Street
Victoria, B.C.
V8V 3G2

(the "Owner")

OF THE SECOND PART

AND:

COMPUTERSHARE TRUST COMPANY OF CANADA

(Inc. No. A0052313)

(the "First Existing Chargeholder")

OF THE THIRD PART

AND:

FIRST NATIONAL FINANCIAL GP CORPORATION

(Inc. No. A0067816)

(the "Second Existing Chargeholder")

OF THE FOURTH PART

WHEREAS:

- A. Capitalized terms not otherwise or elsewhere defined in this Agreement will have the respective meanings ascribed to them in Section 1.1;
- B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a Housing Agreement with an owner regarding the occupancy and form of tenure of the housing units identified in the agreement, and regarding such other terms and conditions as are described in section 483(2) of the *Local Government Act*;

- C. Section 219 of the *Land Title Act* provides, *inter alia*, that a covenant, whether of a negative or positive nature, in respect of the use of land or a building to be erected thereon, may be registered in favour of the City as a charge against the title to that land, and the Owner has agreed to register the herein Section 219 covenant to secure its commitment not to apply to subdivide the Lands or the Development by the deposit of a strata plan;
- D. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 1150 McClure Street, and legally known and described as:

PID: 008-653-356
Lot 13, Fairfield Farm Estate, Victoria City, Plan 758
(the "**Lands**");
- E. The Owner has applied to the City to rezone the Lands (the "**Rezoning Application**") to permit the construction of the Development; and
- F. The City and the Owner wish to enter into this Agreement, as a Housing Agreement pursuant to section 483 of the *Local Government Act*, to secure the agreement of the Owner that the two (2) Dwelling Units located on the basement level of the Development will be used as rental housing.

NOW THIS AGREEMENT WITNESSES that pursuant to section 483 of the *Local Government Act*, and in consideration of Ten Dollars (\$10) now paid by the City to the Owner and the premises and covenants contained in this agreement (this "**Agreement**"), the parties agree each with the others as follows:

1.0 DEFINITIONS

1.1 In this Agreement:

"**Development**" means the new building consisting of three Dwelling Units and related facilities to be constructed on the Lands as contemplated by the Rezoning Application and any municipal permits thereafter issued in respect thereof;

"**Dwelling Units**" means two (2) or all, as the context may require, of the three (3) self-contained dwelling units within the Development, and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise; and
 "**Dwelling Unit**" means any one of such dwelling units;

"**Director**" means the chief administrator of the City's Sustainable Planning and Community Development Department from time to time, and includes his/her successors in function and their respective nominees;

"**Lands**" has the meaning ascribed to that term in Recital C;

"**Land Title Act**" means the Land Title Act, R.S.B.C. 1996, c. 250;

"**Local Government Act**" means the Local Government Act, R.S.B.C. 2015, c. 1;

"Owner" includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 8.3; and

"Rezoning Application" has the meaning ascribed to that term in Recital D;

1.2 In this Agreement:

- (a) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment; and
- (b) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

2.0 BASEMENT DWELLING UNITS TO BE RENTAL HOUSING

2.1 The Owner covenants and agrees that the two (2) Dwelling Units located on the basement level of the Development shall be used as rental housing.

2.2 The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would be to prevent or restrict the Owner from renting the two (2) Dwelling Units located on the basement level of the Development.

3.0 NO SUBDIVISION BY DEPOSIT OF STRATA PLAN

3.1 The Owner covenants and agrees with the City pursuant to Section 219 of the *Land Title Act*, in respect of the use of the Lands and the Development, that it will not make, or allow to be made, any application to deposit a strata plan for or in respect of the Lands or the Development without the prior written consent of the City, which consent may be arbitrarily withheld.

4.0 REPORTING

4.1 The Owner covenants and agrees to provide to the Director, within thirty (30) days of the Director's written request, a report in writing confirming that:

- (a) the two (2) Dwelling Units located on the basement level of the Development are being rented or are vacant;
- (b) all other requirements of this Agreement are being complied with by the Owner and the Development,

together with such other information as may be requested by the Director from time to time.

4.2 The Owner hereby authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.

4.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications of this Agreement and that such consent may be withheld for any reason.

5.0 NOTICE AND COVENANT TO BE REGISTERED IN LAND TITLE OFFICE

- 5.1 Notice of this Agreement (the "**Notice**") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.
- 5.2 The Section 219 Covenant (the "**Covenant**") in this Agreement will be registered in the Land Title Office by the Owner at the cost of the Owner in accordance with the applicable provisions of the *Land Title Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Covenant.
- 5.3 The Owner shall, after execution hereof by it at the expense of the Owner, do or cause to be done all acts necessary to grant priority to the Notice and Covenant over all charges and encumbrances which are registered, or pending registration, in the LTO against the title to the Lands, save and except those as have been specifically approved in writing by the City or have been granted in favour of the City.

6.0 RELEASE AND INDEMNITY

- 6.1 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner 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.
- 6.2 The Owner agrees to indemnify and save harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs 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 the Owner to comply with the terms and conditions of this Agreement.

7.0 PRIORITY AGREEMENTS

- 7.1 The First Existing Chargeholder, as the registered holder of a charge by way of a Mortgage registered against title to the Lands in the Land Title Office at Victoria, British Columbia, under number CA617438 (the "**Mortgage**"), for and in consideration of the sum of One Dollar (\$1.00) paid by the City to the Existing Chargeholder (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to Section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the Mortgage in the same manner and to the same effect as if Notice had been filed prior to the Mortgage.
- 7.2 The Second Existing Chargeholder, as the registered holder of a charge by way of an Assignment of Rents registered against title to the Lands in the Land Title Office at Victoria, British Columbia, under number CA617439 (the "**Assignment of Rents**"), for and in consideration of the sum of One Dollar (\$1.00) paid by the City to the Existing Chargeholder (the receipt whereof is hereby acknowledged), agrees with the City that

upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to Section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the Assignment of Rents in the same manner and to the same effect as if Notice had been filed prior to the Assignment of Rents.

8.0 GENERAL PROVISIONS

8.1 Notice. If sent as follows, a notice under this Agreement is considered to be received

- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
- (b) on the date of delivery if hand-delivered,

if to the City, addressed as follows:

City of Victoria
#1 Centennial Square
Victoria, B.C., V8W 1P6

Attention: Director of Sustainable Planning and Community Development
Fax: 250-361-0386

if to the Owner, addressed as follows:

Jesika Leigh Edison
1150 McClure Street
Victoria, B.C., V8V 3G2

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail service or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

- (c) notice sent by the impaired service is considered to be received on the date of delivery, and
- (d) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

8.2 Time. Time is of the essence of this Agreement.

8.3 Binding Effect. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

- 8.4 Waiver.** The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.
- 8.5 Headings.** The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.
- 8.6 Language.** Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
- 8.7 Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement
- 8.8 Cumulative Remedies.** No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
- 8.9 Entire Agreement.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.
- 8.10 Further Assurances.** Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.
- 8.11 Amendment.** This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.
- 8.12 Law Applicable.** This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 8.13 No Derogation From Statutory Authority.** Nothing in this Agreement shall:
- (b) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
 - (c) relieves the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.
- 8.14 Joint and Several Liability.** The Owner, if comprised of more than one person, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

8.15 Counterparts. This Agreement may be executed in counterparts and delivered by facsimile or emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

8.16 Effective Date. This Agreement is effective as of the date of the signature of the last party to sign.

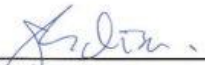
IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year last below written.

THE CORPORATION OF THE CITY OF)
VICTORIA by its authorized signatories:)

_____)
MAYOR Lisa Helps)

_____)
CITY CLERK Chris Coates)

Date Signed: _____)

 _____))
JESIKA LEIGH EDISON)
Date Signed: Jan 30, 2019)

COMPUTERSHARE TRUST COMPANY OF CANADA

by its authorized signatory(ies):

Dan Daniel Lee
Professional, MBS

Print Name: FEB 27 2019

James James Nguyen
Administrator, MBS

Print Name: FEB 27 2019

Date signed: FEB 27 2019



FIRST NATIONAL FINANCIAL GP CORPORATION

by its authorized signatory(ies):

Donald Michael Amoroso, Notary Public,
City of Toronto, limited to the attestation of
instruments and the taking of affidavits, for
First National Financial GP, First National
Financial GP Corporation, and First National
Financial Corporation.
Expires November 7, 2021

Martha Martha Burnett
Senior Manager, Residential Administration

Lisa Lisa White
Senior Vice President, Mortgage Operations

Date signed: