

NO. 19-070

**HOUSING AGREEMENT (2566-2580 FIFTH 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 2566, 2570 & 2580 Fifth 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 (2566-2580 FIFTH 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 Purdey Pacific Properties Ltd., or other registered owners from time to time of the lands described in subsection (c); and
  - (c)      that applies to the lands known as 2566-2580 Fifth Street, Victoria, BC, legally described as:  
PID: 009-209-875, Parcel A (DD 872551) of Lots 15 and 16, Block 17, Section 4, Victoria District, Plan 240  
PID: 009-209-191, The Southerly 48 Feet of Lot 17, Block 17, Section 4, Victoria District, Plan 240  
PID: 009-209-794, The Southerly 36 Feet of Lot 16, Block 17, Section 4, Victoria District, Plan 240  
PID: 009-209-816, The Northerly 12 Feet of Lot 17, Block 17, Section 4, Victoria District, Plan 240

READ A FIRST TIME the	<b>8<sup>th</sup></b>	day of	<b>August</b>	2019
READ A SECOND TIME the	<b>8<sup>th</sup></b>	day of	<b>August</b>	2019
READ A THIRD TIME the	<b>8<sup>th</sup></b>	day of	<b>August</b>	2019
ADOPTED on the		day of		2019

CITY CLERK

MAYOR

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

AMONG:

THE CORPORATION OF THE CITY OF VICTORIA  
#1 Centennial Square  
Victoria, BC V8W 1P6  
(the "City")

OF THE FIRST PART

AND:

PURDEY PACIFIC PROPERTIES LTD. (Inc. No. BC1114296)  
PO Box 400 Stn A  
Prince George, BC V2L 4S2  
(the "Owner")

OF THE SECOND PART

AND:

ROYAL BANK OF CANADA  
(the "Existing Chargeholder")

OF THE THIRD PART

**WHEREAS:**

- A. Capitalized terms used herein will have the respective meanings ascribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein;
- 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 of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*;
- C. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic addresses of 2566, 2570 and 2580 Fifth Street, Victoria, British Columbia and legally described as:

PID: 009-209-191 THE SOUTHERLY 48 FEET OF LOT 17, BLOCK 17, SECTION 4, VICTORIA DISTRICT, PLAN 240

PID: 009-209-794 THE SOUTHERLY 36 FEET OF LOT 16, BLOCK 17, SECTION 4, VICTORIA DISTRICT, PLAN 240

PID: 009-209-816 THE NORTHERLY 12 FEET OF LOT 17, BLOCK 17, SECTION 4, VICTORIA DISTRICT, PLAN 240, and

PID: 009-209-875 PARCEL A (DD 872551) OF LOTS 15 AND 16, BLOCK 17, SECTION 4, VICTORIA DISTRICT, PLAN 240

(collectively, the "Lands");

- D. The Owner has applied to the City to rezone the Lands to permit it to construct the Development;
- E. The Owner has agreed to include Dwelling Units for tenants whose earnings are within the Low to Moderate Household Income Limit, as well as for tenants whose earnings are within the Moderate Household Income Limit; 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 to provide moderate income rental housing, and that all Dwelling Units within the Development will be used and held only as rental housing.

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

#### 1.0 DEFINITIONS

##### 1.1 In this Agreement:

"CPI" means the All-items Consumer Price Index for Victoria, B.C. published from time to time by Statistics Canada, or its successor in function;

"Development" means the new development proposed by the Owner to be built on the Lands, which will be comprised of 64 residential rental units and approximately 6,600 square feet of commercial area and related facilities;

"Director" means the City's Director of Sustainable Planning and Development and includes his/her successors in function and their respective nominees;

"Dwelling Units" means any or all, as the context may require, of the self-contained residential 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,

"Dwelling Unit" means any of such residential dwelling units located on the Lands;

"Lands" has the meaning ascribed to that term in Recital C, and includes any lands into which the same may be consolidated or subdivided;

"Low to Moderate Household Income Limit" means the maximum annual collective household income for the Victoria, British Columbia which the City identifies as "low to moderate", which for 2019, is \$35,000 to \$55,000 for occupants of a studio Dwelling Unit and a one-bedroom Dwelling Unit;

"Low to Moderate Income Unit" means a Dwelling Unit that is designated as a Low to Moderate Income Unit in accordance with Article 3.0 of this Agreement, and includes both the Permanent Low to Moderate Income Units and the Temporary Low to Moderate Income Units;

"Moderate Household Income Limit" means the maximum annual collective household income for the Victoria, British Columbia which the City identifies as "moderate", which for

2019, is \$55,000 to \$85,000 for occupants of a two-bedroom Dwelling Unit and a three-bedroom Dwelling Unit.

"**Moderate Income Units**" means the Dwelling Units that are designated as Moderate Income Units in accordance with Article 4.0 of this Agreement, and includes both the Permanent Moderate Income Units and the Temporary Moderate Income Units;

"**Notice**" has the meaning ascribed to that term in Section 6.1;

"**Occupancy Permit**" means the final occupancy permit issued by the City for the Development;

"**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 10.3;

"**Permanent Low to Moderate Income Unit**" has the meaning ascribed to that term in Section 3.1;

"**Permanent Moderate Income Units**" has the meaning ascribed to that term in Section 4.1;

"**Temporary Low to Moderate Income Unit**" has the meaning ascribed to that term in Section 3.2;

"**Temporary Moderate Income Units**" has the meaning ascribed to that term in Section 4.2; and

"**Tenancy Agreement**" means a tenancy agreement pursuant to the *Residential Tenancy Act* (British Columbia) that is regulated by that Act.

**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 DWELLING UNITS TO BE USED AND OCCUPIED ONLY AS RENTAL UNITS**

- 2.1** The Owner covenants and agrees that all of the Dwelling Units shall only be used as rental housing in perpetuity, and for that purpose shall only be occupied by one or more tenants under the terms of a Tenancy Agreement between the Owner and the tenant(s) who occupy(ies) each Dwelling Unit and who satisfies all terms and conditions in Article 3.0 or 4.0 of this Agreement applicable to such tenant(s).

**3.0 LOW TO MODERATE INCOME HOUSING**

- 3.1** The Owner covenants and agrees that a total of not less than five Dwelling Units, comprised of:

- (a) four studio Dwelling Units; and

- (b) one one-bedroom Dwelling Unit;

shall be designated as Low to Moderate Income Units and shall only be occupied and used as Low to Moderate Income Units in perpetuity (collectively, the "Permanent Low to Moderate Income Units").

- 3.2 The Owner further covenants and agrees that a total of an additional five additional Dwelling Units, comprised of:

- (a) four studio Dwelling Units; and

- (b) one one-bedroom Dwelling Unit,

shall also be designated as Low to Moderate Income Units and shall only be occupied and used as Low to Moderate Income Units for a period of not less than five years from the date of the Occupancy Permit (collectively, the "Temporary Low to Moderate Income Units").

- 3.3 Each of the studio Dwelling Units among the Low to Moderate Income Units shall only be occupied by one or more tenants with a combined annual income that is equal to or less than the Low to Moderate Household Income Limit, and the monthly rent payable as of the start of the tenancy shall be no more than \$1,000, subject to Article 5.0.

- 3.4 Each of the one bedroom Dwelling Units among the Low to Moderate Income Units shall only be occupied by one or more tenants with a combined annual income that is equal to or less than the Low to Moderate Household Income Limit, and the monthly rent payable as of the start of the tenancy shall be no more than \$1,375, subject to Article 5.0.

#### 4.0 MODERATE INCOME HOUSING

- 4.1 The Owner covenants and agrees that not less than one two-bedroom Dwelling Unit shall be designated as a Moderate Income Unit and shall only be occupied and used as a Moderate Income Unit in perpetuity (the "Permanent Moderate Income Unit").

- 4.2 The Owner further covenants and agrees that not less than one three-bedroom Dwelling Unit shall be designated as a Moderate Income Unit and shall only be occupied and used as Moderate Income Unit for a period of not less than five years from the date of the Occupancy Permit (the "Temporary Moderate Income Unit").

- 4.3 Each of the two-bedroom Dwelling Units among the Moderate Income Units shall only be occupied by one or more tenants with a combined annual income that is equal to or less than the Moderate Household Income Limit, and the monthly rent payable as of the start of the tenancy shall be no more than \$2,000, subject to Article 5.0.

- 4.4 Each of the three-bedroom Dwelling Units among the Moderate Income Units shall only be occupied by one or more tenants with a combined annual income that is equal to or less than the Moderate Household Income Limit, and the monthly rent payable as of the start of the tenancy shall be no more than \$2,125, subject to Article 5.0.

#### 5.0 RENT ADJUSTMENTS

- 5.1 During the term of a tenancy, the rent payable by the tenant(s) of any Dwelling Unit may

be adjusted only in accordance the *Residential Tenancy Act* and any other applicable legislation (including City bylaws) in effect from time to time.

- 5.2 Whenever a Low to Moderate Income Unit or a Moderate Income Unit is vacated and new tenant(s) take up occupancy, the starting rents described in section 3.3, 3.4, 4.3 or 4.4, as applicable, may be adjusted by an amount equal to no more than the increase in CPI since the start of the tenancy that has just ended.

## 6.0 REPORTING

- 6.1 The Owner covenants and agrees to provide to the Director, on the 1<sup>st</sup> day of February in each calendar year, a report in writing confirming the following:

- (a) all Dwelling Units are being rented or are vacant;
- (b) not less than five Permanent Low to Moderate Income Units are being rented in accordance with Article 3.0 and Section 3.1;
- (c) until the five year anniversary of the date of the Occupancy Permit, not less than five Temporary Low to Moderate Housing Units are being rented in accordance with Article 3.0 and Section 3.2;
- (d) not less than one Permanent Moderate Income Unit is being rented in accordance with Article 4.0 and Section 4.1
- (e) not less than one Temporary Moderate Income Unit is being rented in accordance with Article 4.0 and Section 4.2,

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

- 6.2 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.
- 6.3 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.

## 7.0 NO SUBDIVISION

- 7.1 The Owner covenants and agrees that it will not suffer, cause or permit any application to be made to subdivide the Lands under the *Land Title Act* (British Columbia), the *Strata Property Act* (British Columbia) or otherwise, without the prior written consent of the City, which consent the City may withhold arbitrarily.

## 8.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

- 8.1 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.

## 9.0 LIABILITY

- 9.1 The Owner agrees to indemnify and saves 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, or otherwise that would not have arisen "but for" this Agreement.
- 9.2 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, or otherwise that would not have arisen "but for" this Agreement.

## 10.0 PRIORITY AGREEMENT

- 10.1 The Existing Chargeholder, as the registered holder of a mortgages registered against title to the Lands in the Land Title Office at Victoria, British Columbia, under numbers CA7515677, CA7515717 and CA7515698 (the "Prior Charges"), for and in consideration of the sum of One Dollar (\$1.00) paid by the City (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*, and this Agreement shall be an encumbrance upon the Lands in priority to the Prior Charges in the same manner and to the same effect as if Notice had been filed prior to the Prior Charges.

## 11.0 GENERAL PROVISIONS

- 11.1 NOTICE. If sent as follows, 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,

to the City:

City of Victoria  
#1 Centennial Square  
Victoria, BC V8W 1P6

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

to the Owner:

Purdey Pacific Properties Ltd.  
PO Box 400 Stn A  
Prince George, BC V2L 4S2

Attention: Luke Mari or Sarah Howse  
Email: [lmari@purdevgroup.com](mailto:lmari@purdevgroup.com) or [showse@purdevgroup.com](mailto:showse@purdevgroup.com)

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,

- (b) notice sent by the impaired service is considered to be received on the date of delivery, and
- (c) 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.

**11.2 TIME.** Time is of the essence of this Agreement.

**11.3 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.

**11.4 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.

**11.5 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.

**11.6 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.

**11.7 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.

**11.8 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.

**11.9 ENTIRE AGREEMENT.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

**11.10 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.



(000)3072.4)

PURDEY PACIFIC PROPERTIES LTD. )  
by its authorized signatory(ies): )

  
Print Name: LUKE MARZI )

\_\_\_\_\_  
Print Name: \_\_\_\_\_ )

Date signed: July 22 / 2019 )

ROYAL BANK OF CANADA )  
by its authorized signatory(ies): )

\_\_\_\_\_  
Print Name: \_\_\_\_\_ )

\_\_\_\_\_  
Print Name: \_\_\_\_\_ )

Date signed: \_\_\_\_\_ )

PURDEY PACIFIC PROPERTIES LTD.  
by its authorized signatory(ies):

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_


Date signed: \_\_\_\_\_

ROYAL BANK OF CANADA  
by its authorized signatory(ies):

\_\_\_\_\_  
Print Name: Anastasia Rees Teamleader

\_\_\_\_\_  
Print Name: REVELYN RAMIL GONZALES

Date signed: July 29, 2019 Teamleader

  
OLIVER SORIANO MANUBA, Notary Public  
City of Toronto, Limited to the attestation of  
Instruments and the taking of affidavits for  
The Royal Bank of Canada, Royal Trust Corporation  
Of Canada and The Royal Trust Company.  
Expires, October 12, 2019

**ROYAL BANK OF CANADA**  
10 York Mills Rd, Toronto, ON M2P 0A2

