

CITY OF NANAIMO

BYLAW NO. 7428

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

WHEREAS Section 483 of the *Local Government Act* provides that Council may enter into a Housing Agreement, which may include terms and conditions agreed to regarding the occupancy of the housing units identified in the Agreement;

AND WHEREAS, Council wishes to enter into such an Agreement with respect to certain housing units located in the City of Nanaimo;

THEREFORE BE IT RESOLVED, that Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as the City of Nanaimo "Housing Agreement Bylaw 2026 No. 7428".
2. The Council of the City of Nanaimo hereby authorizes the Mayor and Corporate Officer to enter into an Agreement, on behalf of the City of Nanaimo, in substantially the form attached hereto as Schedule 'A', which sets out the terms and conditions of the occupancy of the housing units identified in the Agreement. The land identified in the Agreement is legally described as LOT A, SECTION 1, NANAIMO DISTRICT, PLAN EPP29088, (the "**Land**");
3. Upon execution of the Agreement by the Mayor and Corporate Officer and application of the seal of the City of Nanaimo, this Agreement shall be validly entered into as authorized by this Bylaw.

PASSED FIRST READING: _____

PASSED SECOND READING: _____

PASSED THIRD READING: _____

ADOPTED: _____

MAYOR

CORPORATE OFFICER

File: HA000016
Address: 355 NICOL STREET

SCHEDULE A
TERMS OF INSTRUMENT – PART 2
SECTION 219 COVENANT AND AFFORDABLE HOUSING
AGREEMENT

THIS AGREEMENT made this ____ day of _____ 2026

BETWEEN:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC
V9R 5J6

(the “**City**”)

OF THE FIRST PART

AND:

PROVINCIAL RENTAL HOUSING CORPORATION
1701 – 4555 Kingsway
Burnaby, BC
V5H 4V8

(the “**Grantor**”)

OF THE SECOND PART

WHEREAS:

- A. The City may, by agreement under Section 483 of the *Local Government Act*, enter into a housing agreement with an owner regarding the use and occupancy of the dwelling units identified in the agreement, including but not limited to terms and conditions referred to in Section 483(2) of the *Local Government Act*;
- B. The Grantor is the registered owner in fee-simple of the lands described as:

LOT A, SECTION 1, NANAIMO DISTRICT, PLAN EPP29088, PID: 029-218-560 (the “**Land**”);
- C. The Grantor wishes to develop 35 Dwelling Units (the “**Development**”) and has applied for a Development Permit (DP001329);

- D. In connection with the application No. RA000489 to amend the City of Nanaimo Zoning Bylaw 2011 No. 4500, the Grantor voluntarily offered to provide amenities in accordance with the City's *Community Amenity Contribution Policy* and granted a Section 219 covenant registered against title to the Land under No. CB986843 (the "**Financial Contribution**");
- E. Section 483 of the Local Government Act (British Columbia) authorizes the City, by bylaw, to enter into a Housing Agreement;
- F. Section 219 of the Land Title Act permits the registration of a covenant of a negative or positive nature in favour of the City in respect of the subdivision of land, use of land or construction on the Land;
- G. The City and the Grantor wish to enter into this agreement ("**Agreement**") to restrict the use of, and construction on, the Land on the terms and conditions of this Agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to Section 483 of the *Local Government Act* and Section 219 of the Land Title Act and in consideration of the premises and covenants contained in this Agreement, the parties hereto covenant and agree with the other as follows:

1.0 INTERPRETATION

- 1.1 In addition to the definitions of the Zoning Bylaw, the following words and terms have the following meanings:
 - a) "Affordable Units" means all of the Dwelling Units which will only be occupied by one or more Eligible Tenants;
 - b) "Development" refers to the totality of all Dwelling Units and ancillary spaces constructed on that part of the Land;
 - c) "Dwelling Unit" means a habitable room consisting of a self-contained unit with a separate entrance for the residential accommodation of only one family and which contains a cooking facility but excludes all accommodation for the travelling public;
 - d) "Eligible Tenant" means a tenant or tenants of an Affordable Unit whose collective annual before-tax income does not exceed the most current Housing Income Limits;

- e) “Final Occupancy Date” means the date upon which the entirety of the Development has been approved for occupancy by the building inspector for the City of Nanaimo;
- f) “Grantor” means the current owner of the Land or any person who acquires an interest in the Land;
- g) “Housing Income Limits” means the Housing Income Limits for affordable housing programs in Vancouver Island planning area associated with the City of Nanaimo, as amended from time to time, published by British Columbia Housing Management Commission or its successors in function that is in effect at the time the Eligible Tenant take occupancy of the Affordable Unit;
- h) “Permitted Rent” means the monthly rent that the Grantor may charge an Eligible Tenant for an Affordable Unit, which monthly rent shall not exceed 1/12 of 30% of the Eligible Tenant(s) collective annual before-tax income;
- i) “Rent Charge” means the rent charge referred to in Section 6.6; and
- j) “Term” means in perpetuity from the Final Occupancy Date.

2.0 OCCUPANCY and USE OF AFFORDABLE UNITS

- 2.1 The Grantor covenants and agrees with the City that from and after the Final Occupancy Date and for the Term, all Affordable Units within the Development are and shall remain Affordable Units for the Term and shall only be occupied by an Eligible Tenant.
- 2.2 The Grantor covenants and agrees that no Affordable Unit shall be rented to an Eligible Tenant for more than the Permitted Rent.
- 2.3 When calculating annual before-tax income for the purposes of this Agreement, the parties will include the maximum shelter component of any income assistance received.
- 2.4 The Grantor shall not require an Eligible Tenant to pay any extra charges or fees for use of any common area, including parking or storage, or for sanitary sewer, storm sewer, water, strata fees or levies, and property taxes. Provided, however, that this section shall not apply to cablevision, telephone, internet, gas or electricity and shall not prohibit the Grantor from charging for the use of washing and drying machines in the common areas of the Development.
- 2.5 The Grantor covenants and agrees with the City that the Land shall not be subdivided by any means whatsoever.

3.0 DEVELOPMENT COST CHARGES

- 3.1 If the number of Affordable Units in the Development is at least 30% of the total number of Dwelling Units, the City agrees to reduce the amount of development cost charges payable under the "City Of Nanaimo Development Cost Charge Bylaw 2017 No. 7252" by 50%.

4.0 FINANCIAL (AMENITY) CONTRIBUTION

- 4.1 In accordance with the City's *Community Amenity Contribution Policy*, the Financial Contribution may be waived 100% for any Dwelling Units that are Affordable Units.

5.0 ANNUAL REPORT

- 5.1 The Grantor further covenants and agrees that during the term of this Agreement, it will, commencing on the first anniversary of the Final Occupancy Date is issued for the Development on the Land, and on that anniversary date annually thereafter, provide to the City's Director of Planning & Development a report in writing and in a form acceptable to the City's Director of Planning & Development confirming that the Affordable Units continue to be used and occupied as required under this Agreement.

6.0 BINDING EFFECT

- 6.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, administrators and permitted assignees.

7.0 ENFORCEMENT AND WAIVER

- 7.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if this Agreement had not been executed and delivered by the Grantor. 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 shall not be construed as a waiver of any future or continuing failure, whether similar or dissimilar.
- 7.2 The parties agree that the City is not obligated to inspect the Land or to otherwise ensure compliance with this Agreement, nor is the City obligated to remedy any default of this Agreement. A failure by the City to enforce this Agreement shall not constitute a waiver of any of the City's rights hereunder.

- 7.3 No remedy under this Agreement is deemed to be exclusive but will, where possible, be cumulative with all other remedies available at law or in equity.
- 7.4 The Grantor covenants and agrees that, in addition to any remedies that are available under this Agreement or at law, the City is entitled to all equitable remedies, including specific performance, injunction and declarative relief to enforce its rights under this Agreement. The Grantor acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Grantor under this Agreement.
- 7.5 The Grantor acknowledges that the City requires the Affordable Units for the benefit of the community. The Grantor therefore agrees that for each day the Land is occupied in breach of this Agreement, the Grantor must pay the City \$100.00 (the “**Daily Amount**”) as liquidated damages and not as a penalty, due and payable at the offices of the City on the last day of the calendar month in which the breach occurred. Should any breach be unintentional, and the Grantor promptly provides written notice to the City and actively and diligently works to remedy the breach, the Grantor shall have a cure period of up to a maximum of 60 days from the date the breach is identified to rectify the breach, and the Daily Amount shall not accrue during this cure period. The Daily Amount is increased on January 1 of each year by the amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase between that previous January 1 and the immediately preceding December 31 in the Consumer Price Index. The Grantor agrees that payment may be enforced by the City in a court of competent jurisdiction as a contract debt. The Daily Amount may be collected by the City as a rent charge under the following section.
- 7.6 By this section, the Grantor grants to the City a rent charge under section 219 of the *Land Title Act*, and at common law, securing payment by the Grantor to the City of the Daily Amount as described in section 7.5. The City may enforce the rent charge granted by this section by an action for an order for sale or by proceedings for the appointment of a receiver.

8.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

- 8.1 Notice of this Agreement shall be registered in the *Land Title Office* by the City at the cost of the Grantor in accordance with Section 483 of the *Local Government Act*, and as a covenant in accordance with Section 219 of the *Land Title Act*.

9.0 TERMINOLOGY

- 9.1 Wherever the singular, masculine or neuter are used throughout this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic as the context requires.

10.0 BC LAWS GOVERN

10.1 This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

As evidence of their intention and agreement to be bound by this Agreement, the parties hereto have executed the General Instrument – Part 1 (Land Title Act Form C) which is attached to and forms part of this Agreement.