

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2954

A Bylaw to authorize a Housing Agreement
under section 483 of the *Local Government Act*

THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the “*HOUSING AGREEMENT (638 Constance Avenue, 640 Constance Avenue, 637 Nelson Street) BYLAW, 2019, NO. 2954*”.
2. The Mayor and the Corporate Officer are authorized to execute the Housing Agreement:
 - (a) set out in Schedule A,
 - (b) between the Township and CONSTANCE APARTMENTS INC., Inc. No. BC1128254, and
 - (c) that applies to the land known as 638 Constance Avenue, 640 Constance Avenue and 637 Nelson Street legally described as:

PID: 000-380-911, Amended Lot 88 (DD208442I), Of Suburban Lot 44, Esquimalt District, Plan 2854

PID: 006-386-466, Lot D (DD 367731-I), Suburban Lot 44, Esquimalt District, Plan 2854

PID: 000-546-437, Lot B (DD 237133I), Of Lots 79 and 83, Suburban Lot 44, Esquimalt District, Plan 2854

READ a first time by the Municipal Council on the 4th day of February, 2019.

READ a second time by the Municipal Council on the 4th day of March, 2019.

READ a third time by the Municipal Council on the 4th day of March, 2019.

RESCIND third reading by the Municipal Council on the 15th day of April, 2019.

AMEND AND READ ANEW at second reading by the Municipal Council on the 15th day of April, 2019.

READ a third time by the Municipal Council on the 15th day of April, 2019.

RESCIND third reading by the Municipal Council on the ____ day of _____, 2019.

AMEND AND READ ANEW at second reading by the Municipal Council on the ____ day of _____, 2019.

READ a third time by the Municipal Council on the ____ day of _____, 2019.

ADOPTED by the Municipal Council on the ____ day of _____, 2019.

BARBARA DESJARDINS
MAYOR

ANJA NURVO
CORPORATE OFFICER

**SCHEDULE A to Bylaw No. 2954
HOUSING AGREEMENT**

HOUSING AGREEMENT

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

THIS AGREEMENT is made the 3 day of June, 2019.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT

1229 Esquimalt Road
Esquimalt, BC V9A 3P1

(the "TOWNSHIP")

AND

CONSTANCE APARTMENTS INC., Inc. No. BC1128254

1091 San Marino Crescent
Victoria, BC V8X 3B3

(the "OWNER")

RECITALS:

- A. Under section 483 of the *Local Government Act*, R.S.B.C. 2015 c.1 ("LGA") the Township 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*;
- B. The Owner is the registered owner in fee-simple of those lands with a current civic address of 638-640 Constance Avenue and 637 Nelson Street in the Township of Esquimalt in Province of British Columbia, and legally described as:

PID: 000-380-911

Amended Lot 88 (DD 208442I), Of Suburban Lot 44, Esquimalt District,
Plan 2854

PID: 006-386-466

Lot D (DD 367731-I), Suburban Lot 44, Esquimalt District, Plan 2854

PID: 000-546-437

Lot B (DD 237133I), Of Lots 79 and 89, Suburban Lot 44, Esquimalt
District, Plan 2854

(collectively the "Lands").

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subject to such reasonable adjustments as agreed between the parties, with or without modification to this Agreement;

- (2) For information purposes, the 2018 Housing Income Limits for the Victoria region, by size of unit, are as follows:
- Bachelors: \$34,500
 - 1 Bedroom: \$39,800
 - 2 Bedrooms: \$51,700
 - 3 Bedrooms: \$74,300

2. RENTAL UNITS ONLY – MARKET WORKFORCE HOUSING

- 2.1. The Owner covenants and agrees that the building it constructs upon the Lands will contain rental residential dwelling units which:
- (a) must only be used and occupied for residential purposes in accordance with Township zoning;
 - (b) must not be restricted as to their availability for rent by non-owners; and
 - (c) must include a parking space in the rent of one, two and three bedroom units, except in relation to affordable units which are not allocated a parking space.
- 2.2. The Owner presented the Proposed Development as a purpose-built rental apartment-style building where all units are owned by a single entity, and acknowledges that the Lands and building cannot be subdivided or stratified, as further secured by Covenant under section 219 of the *Land Title Act*, and therefore the Owner cannot and will not make application to deposit a strata plan for the building that is to be constructed on the Lands, or undertake other ownership structure that would restrict or compromise the rental of the residential units.
- 2.3. The Owner acknowledges that a Township goal includes providing market workforce housing and therefore the Owner further covenants and agrees that the dwelling units must be at all times available to all classes of persons, and the tenancies and occupancies for all the dwelling units must be residential and the tenancies and occupancies for all the dwelling units must not be institutional in nature. However, the parties acknowledge and agree that this provision does not prohibit:
- (a) management, operation or use of any number of the dwelling units by Department of National Defense and/or Seaspan for workforce housing,
 - (b) one additional allocation of up to ten (10) dwelling units to a single individual, governmental agency or corporation for management, operation or use by that individual, governmental agency or corporation, and for clarity, not more than a total 10 units in the proposed Development may be so allocated at any given time,

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- (d) a copy of the standard form(s) of tenancy or occupancy agreement for the dwelling units, including the term of that agreement (but without the personal information of each individual agreement);
 - (e) Location and use of other buildings, units and rooms on the Lands;
 - (f) Subject to the provisions of relevant prevailing law in connection therewith, the name and contact information of all individuals, governmental agencies or corporations that use, occupy, manage or operate more than one dwelling unit (and the respective unit numbers);
 - (g) Additional requirements with respect to the Affordable Units:
 - (1) The number, type (e.g. 1-bedroom, 2-bedroom), and location, by suite number, of each of the Affordable Units;
 - (2) The date each Affordable Unit was first occupied in accordance with this Agreement, respectively;
 - (3) By each Affordable Unit, the number of individuals occupying such unit and the monthly rent charged;
 - (4) The BC Housing Income Limits used to determine eligibility for the Affordable Units and the Affordable Rent;
 - (h) Such further information identified in the request from the Township, provided such is relevant to the interpretation, administration or enforcement of this Housing Agreement.
- 4.2. The parties acknowledge that reporting requirements will not be imposed more than once per year, unless there are reasonable grounds to believe that there may be a breach, in fact or in spirit, of this Housing Agreement (as determined in the Township's sole discretion, for the purposes of reporting).
- 4.3. For greater certainty, there are no reporting requirements unless the Township so requests, but when the Township requests a report the Township may request the information for the year in which such report is requested and for previous years not previously reported.

5. NOTICE IN LAND TITLE OFFICE

- 5.1. Notice of this Agreement will be filed in the Land Title Office by the Township 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 filing of the Notice.
- 5.2. The parties agree that the provisions of Part 3 are intended only for 20 years, as determined in accordance with that Part, and that this Agreement or the Notice on Title need not be amended or modified for such expiration to be effective for that part only. The remainder of the provisions are

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7.5. WAIVER:

- (a) No provision of this Housing Agreement is to be waived by a party unless the waiver is expressed in writing by the party.
- (b) 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.

7.6. 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.

7.7. 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.

7.8. 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.

7.9. RELATIONSHIP OF PARTIES:

- (a) No provision of this Agreement may be construed to create a partnership or joint venture relationship, an employer-employee relationship, a landlord-tenant, or a principal-agent relationship.
- (b) The Owner is solely responsible for all costs and expenditures required to fulfill its obligations under this Agreement, whether those costs and expenses are specifically referred to in this Agreement.

7.10. FURTHER ASSURANCES: The Owner 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 Housing Agreement.

7.11. ENTIRE AGREEMENT:

- (a) This Agreement contains the entire agreement and understanding of the parties with respect to the matters contemplated by this

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7.16. AMENDMENT:

- (a) This Agreement may be amended from time to time upon terms and conditions acceptable to the parties.
- (b) The Owner acknowledges that it is within the Township's sole discretion to consent or not to consent to modifications of this Agreement and that such consent may be withheld for any reason.

7.17. APPLICABLE LAW: This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

IN WITNESS WHEREOF the parties have set their hands and seals as of the day and year first above written.

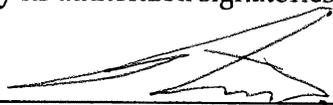
TOWNSHIP OF ESQUIMALT

by its authorized signatories

_____)
 Mayor)
 _____)
 Chief Administrative Officer)

CONSTANCE APARTMENTS INC., Inc. No. BC1128254,

by its authorized signatories


 _____)
 Name:)
 _____)
 Name:)

CONOR MULDOON
Barrister & Solicitor
1208 - 355 BARRARD STREET
VANCOUVER, B.C. V6C 2G8
604-974-9749