

City of Chilliwack

Bylaw No. 5270

A bylaw to authorize a Housing Agreement

WHEREAS Section 483 of the *Local Government Act* provides that Council may enter into a Housing Agreement with an owner 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 Chilliwack;

NOW THEREFORE the Council of the City of Chilliwack in open meeting assembled enacts as follows:

1. This Bylaw may be cited as **“Housing Agreement Bylaw 2022, No. 5270”**
2. The Council of the City of Chilliwack hereby authorizes the Mayor and Corporate Officer to execute an Agreement, on behalf of the City of Chilliwack, with Phoenix Society as set out in Schedule “A”, attached hereto and forming part of this Bylaw. The land identified in the Agreement is legally described as:

LOT 1 DISTRICT LOT 27 GROUP 2 NEW WESTMINSTER DISTRICT PLAN
EPP123408

3. Upon execution of the Agreement by the Mayor and Corporate Officer and application of the seal of the City of Chilliwack, this Agreement shall be validly entered into as authorized by this Bylaw.
4. The Corporate Officer is authorized to sign and file in the Land Title Office, notices of the Agreement as required by the *Local Government Act*.

Received first reading and second reading on the 6th day of December, 2022.

Received third reading on the 6th day of December, 2022.

Received adoption on the

.....
Mayor

.....
Corporate Officer

CITY OF CHILLIWACK

HOUSING AGREEMENT

THIS AGREEMENT made the ____ day of _____, 2022.

BETWEEN:

CITY OF CHILLIWACK, a Municipal Corporation having its municipal offices at 8550 Young Road, Chilliwack, BC V2P 8A4

(the “City”)

AND:

PROVINCIAL RENTAL HOUSING CORPORATION

1701-4555 Kingsway Avenue, Burnaby, BC V5H 2V8

(“Registered Owner”)

WHEREAS:

- A. The Provincial Housing Corporation (PRHC) is the current registered owner of those certain lands and premises located at 45857 Trethewey Avenue, Chilliwack, in the Province of British Columbia, legally described as:

LOT 1 DISTRICT LOT 27 GROUP 2 NEW WESTMINSTER DISTRICT PLAN
EPP123408

- B. The Registered Owner has entered into an operator agreement with Phoenix Society of 13686 94A Avenue Surrey, BC, for a term of five years with rights to renew, to operate a development on the land consisting of 49 units of supportive housing and 42 shelter beds for occupancy by Qualified Occupants (the “Development”);
- C. Pursuant to “Development Cost Charges Waiver for Eligible Developments Bylaw 2010, No. 3679”, the City has waived the payment of development cost charges in the amount of \$488,919.25 for the Development.

NOW THEREFORE in consideration of the premises herein and of the mutual covenants and agreements hereinafter set forth and contained herein and \$1.00 now paid by the City to the Registered Owner (the receipt of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1. DEFINED TERMS

1.1 In and for the purposes of this Agreement, the following terms shall have the following meanings:

- (a) “Agreement” means this Housing Agreement and any amendments to or modifications of the same;
- (b) “Dwelling Unit” means any dwelling unit in the Development that is constructed upon the Lands and is occupied or available for occupancy by a Qualified Occupant;
- (c) “Qualified Occupant” means an individual:
 - (i) Who is living at risk of experiencing homelessness but is capable of independent living; and,
 - (ii) Who earns less than the median household income for Chilliwack;
- (d) “Term” shall mean the period commencing on the date of this Agreement and continuing in full force and effect for 20 years.

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 of 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 gender and vice versa, 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 articles, section, paragraph or clause refers to the articles, 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.

2. RESTRICTION ON OCCUPANCY OF DWELLING UNITS

- 2.1 The Registered Owner covenants and agrees that during the Term of this Agreement, only Qualified Occupants may occupy any dwelling unit.

3. RESTRICTION ON ASSIGNMENT OR TRANSFER

- 3.1 The Registered Owner covenants and agrees that during the Term of this Agreement, it shall not assign or transfer its interest in the Lands without the written consent of the City.

4. ANNUAL REPORT

- 4.1 The Registered Owner or the Housing Operator on behalf of the Registered Owner shall, during the Term of this Agreement, commencing on the first anniversary of the date an occupancy permit is issued for the building on the Lands and on that anniversary date annually thereafter, if requested by the City, provide to the City a report in writing confirming that the Dwelling Units are occupied as required under this Agreement.

5. ENFORCEMENT AND REMEDIES

- 5.1 If the Registered Owner fails to ensure compliance with Section 2.1 of this Agreement or fails to meet any of its other obligations under this Agreement, then it is specifically understood and agreed that the City will be entitled, but will not be obliged, to enforce this Agreement.
- 5.2 Without limiting Section 5.1, if the Registered Owner fails to ensure compliance with Section 2.1 of this Agreement, the Registered Owner covenants and agrees that it must pay to the City immediately a sum equal to the waived development cost charges, and this sum and the City’s actual costs of collection, including all legal fees and court costs, constitute a debt due and owing to the City by the Registered Owner which may be collected by the City from the Registered Owner by any legal means available to the City.
- 5.3 The Registered Owner 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.
- 5.4 The Registered Owner covenants and agrees that in any action to enforce this Agreement, the City shall be entitled to court costs on a solicitor and own client basis.

6. LIABILITY

6.1 The Registered Owner of the Lands indemnifies 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 Registered Owner of the Lands to comply with the terms and conditions of this Agreement.

6.2 The Registered Owner of the Lands 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 Registered Owner of the Lands 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.

7. NOTICE

7.1 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 of Chilliwack:

City of Chilliwack
8550 Young Road
Chilliwack, British Columbia V2P 8A4
Attention: Corporate Officer

(b) as to the Registered Owner:

Provincial Rental Housing Corporation
1701-4555 Kingsway Avenue
Burnaby, British Columbia V5H 4V8
Attention: PRHC Director(s)

or such other address as such party may direct by five business days’ notice in writing to the other parties. Any notice or other documents 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 section and shall be deemed complete two days after the day of delivery.

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

8. GENERAL

8.1 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 uses or subdivision of land; or,
- (b) relieves the Registered Owner of the Lands from complying with any enactment, including the City’s Bylaws.

8.2 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.

8.3 Time is of the essence of this Agreement. If any party waives this requirement, that party may reinstate it by delivering notice to the other party.

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

8.5 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.

8.6 Upon request by the City, the Registered Owner of the Lands 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.

8.7 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.

8.8 This Agreement shall charge and run with the lands and expire at the end of the “Term”.

8.9 This Agreement shall ensure to the benefit of and be binding upon the Registered Owner and all parties claiming through them and this Agreement shall ensure to the benefit of and be binding upon the City and its successors and assigns.

8.10 The parties agree to register on title a covenant evidencing this agreement.

IN WITNESS WHEREOF the parties hereto acknowledge that they have executed this Agreement on the reference date written above.

The Corporate Seal of the City of)
Chilliwack was hereunto affixed in the)
presence of:)

_____)
Mayor)

_____)
Corporate Officer)

C/S

Executed by the above-named)
representative of the Provincial Rental)
Housing Corporation in _____,)
British Columbia in the presence of:)

Provincial Rental Housing
Corporation by its authorized
signatory

_____)
Witness)

Print Name

Address