

**MEETING DATE:** August 20, 2018

**SUBMITTED BY:** Ken Woitt, Director, Planning & Development

**PREPARED BY:** Sylvain Losier, Manager, Current Planning and Development  
Jennifer Cannon, Director, Finance  
Shaw Olson, Director, Engineering  
Brian Loewen, City Solicitor

**REPORT TITLE:** City of Leduc - Alberta Social Housing Corporation Land Exchange Agreement

## REPORT SUMMARY

The report provides administration's recommendation towards the proposed land exchange agreement between the City of Leduc and the Alberta Social Housing Corporation for the purpose of enabling the Linsford Gardens Housing Project.

## RECOMMENDATION

1. That Council approve the proposed land exchange agreement between the City of Leduc and the Alberta Social Housing Corporation.
2. That Council approve a capital budget amendment of \$250,000 to be added to project 076.158 for watermain construction, to be paid for by the Linsford Gardens Housing Project.

## BACKGROUND

### KEY ISSUE(S) / CONTEXT:

The Alberta Social Housing Corporation (ASHC) in collaboration with the Leduc Regional Housing Foundation (LRHF) would like to redevelop the Linsford Gardens Housing Project. This project would accommodate up to 64 dwelling units. The design team has been given the mandate to meet the following criteria:

- Replace 42 units, and add up to 22 new units for a maximum of 64 dwelling units
- Modest size & design
- Safe, comfortable and affordable
- Cost effective
- Energy efficient
- Positive streetscape
- Preserve trees
- Community park access
- Visibility through street and park
- Minimize lane congestion
- Street-oriented units
- No tenant displacement
- Neighborhood friendly

In order to achieve these objectives, many scenarios were investigated and the design team concluded that it was not possible to achieve all of them unless a land exchange between the City of Leduc and ASHC would take place. This land exchange will allow for a construction cycle to include construction of new dwelling units and relocation of residents to the new units, followed by demolition of the original units. This cycle will be repeated until all residents have been moved and the last of the original units demolished. At this point, ASHC will create a park of equal size (1.29 acres) and value to be transferred to the City of Leduc within the same Block.

During the last few weeks, administration has been working with ASHC on a draft agreement in order to identify the responsibilities of each party. The agreement is attached to this report as Schedule 1. All terms within the agreement have been discussed at length with the Province and responsibility for work and expenses have been assigned to either party. It has been noted by the Province that should this Land Exchange Agreement not be approved by Council in its current form and the process subjected to time delays past this point, funding for the affordable housing project may be in jeopardy.

## LEGISLATION AND/OR POLICY:

1. Municipal Government Act, RSA 2000, Chapter M-26, as amended

## PAST COUNCIL CONSIDERATION:

The land exchange agreement related to the Linsford Gardens Housing Project is being presented to Council for the first time.

The Linsford Gardens Housing Project itself was discussed at Committee of the Whole on June 26, 2017; December 11, 2017; and May 14, 2018. The project was also brought forward for discussion at Council on May 28, 2018.

Bylaw 992-2018, redistricting the lands in relation to the project, received 1<sup>st</sup> reading on June 25, 2018 and the public hearing was initiated on July 9, 2018. The public hearing was recessed and Council decided that it would resume at the August 20, 2018 meeting.

Happening parallel to the redistricting application for the Linsford garden Housing Project, the City of Leduc is preparing itself for the water main extension project in Linsford as approved previously by Council. This water main extension is scheduled to begin in the latter half of 2018, pending 3<sup>rd</sup> reading of the proposed redistricting bylaw.

## CITY OF LEDUC PLANS:

The proposed land exchange is consistent with the City's Municipal Development Plan, as amended, in that it:

- promotes compact urban form through sensitive redevelopment and achieving residential densities from the regional plan (Policy 4A)
- encourages infilling and redevelopment of existing neighbourhoods, promoting innovative site planning, and supporting the provision of affordable housing (Policy 4D)
- addresses cost of living increase (5A)
- assists private companies and social agencies in the provision of affordable market and financially supported housing (5C)

The proposed agreement also supports the following goals of the City of Leduc Strategic Plan:

### Community Character

Our streets, open spaces, parks and buildings reflect our heritage, values and lifestyle. We expect excellence in design that facilitates vibrant, diverse and active community spaces and neighbourhoods.

### Community Wellness

We ensure quality opportunities to participate in all aspects of our community and foster a sense of belonging. We support a safe, healthy, active and caring community.

## IMPLICATIONS OF RECOMMENDATION

### ORGANIZATIONAL:

There are no organizational changes required.

### POLICY:

There are no policy implications.

### LEGAL:

The Land Exchange Agreement is necessary to allow for a phased redevelopment of the Linsford Gardens project. The Agreement will transfer the City land to the province with the obligation to transfer back a new park area upon completion of construction.

### FINANCIAL:

To implement the Linsford Gardens Housing Project, additional fire flow capabilities are required. As part of the year-end process, carry forward was allocated within project 076.158 to pay for a water main extension from Black Gold Drive to the Linsford Gardens Housing Project to meet the current standards for fire protection, which are required for a multi-family development such as the one being proposed. Currently, that 2018 budget is funded from a combination of funding sources including MSI. As this project directly supports the Linsford Gardens Housing Project, the province will contribute up to \$250,000 towards completion of the project. If the project exceeds \$250,000, it will be paid for by funds within the current capital project as previously indicated. From a funding perspective, a capital budget amendment of \$250,000 to be paid for by the province is required in project number 076.158. It is important to note that, in the future, even without the Linsford Gardens Housing Project moving forward, the City would have needed to construct watermain looping similar to the one being proposed.

Once construction of the Linsford Gardens Housing Project is complete and the City is given back the 1.29-acre park its new northeast location, the City will be responsible for paying a portion of the installation costs of sod (payment will equal the difference between seeding and sodding, determined at installation) as well as maintenance of the sod. The City will also reimburse the full cost for multiway, fencing, park benches and a garbage receptacle on the new park site. These costs have been included in the 2019 Capital Budget, Project 103.013 - \$35,000 for sod and maintenance and \$141,000 for multiway trail and site amenities.

Responsibility for removal, storage and reinstallation of the existing playground equipment, garbage receptacle and ball diamond will lie with the City. The Province has agreed to reimburse the City the total cost. These costs will be taken from Capital Project 103.003, with funds then being reduced for current projects anticipated in 2019.

As with any land exchange, contribution, or purchase, a site assessment should be done as part of the process. The City owns the site and therefore becomes responsible for any liability associated with the remediation of contamination on the property. This is in relation to the PSAB 3260 accounting standard.

In the current situation, a review of the lot files indicated that the land uses in this vicinity contained a very low risk of having any type of pollution associated with them. The only source of contaminant could be the buildings themselves, pending the material used during their construction.

## **IMPLEMENTATION / COMMUNICATIONS:**

Should Council agree with the recommendation, the City's Communications department will keep the community informed of the progress of this project.

## **ALTERNATIVES:**

1. That Council reject the land exchange agreement and direct the Alberta Social Housing Corporation and the Leduc Regional Housing Foundation to explore a different layout.

## **ATTACHMENTS:**

1. Land Exchange Agreement

## Others Who Have Reviewed this Report

D. Melvie, A/City Manager / B. Loewen, City Solicitor / B. Knisley, A/General Manager, Infrastructure & Planning / J. Cannon, Director, Finance

THIS AGREEMENT DATED the 20 day of August, 2018.

**BETWEEN:**

**ALBERTA SOCIAL HOUSING CORPORATION**  
(hereinafter referred to as the "Housing Corporation")

- and -

**CITY OF LEDUC**  
(hereinafter referred to as the "City")

**LAND EXCHANGE AGREEMENT**

**WHEREAS:**

- A. The Housing Corporation is the registered owner of a parcel of lands legally described within **Schedule "A"** attached to this Agreement (hereinafter referred to as the "**Housing Corporation Lands**");
- B. The City is the registered owner of lands legally described within **Schedule "A"** attached to this Agreement (hereinafter referred to as the "**City Lands**");
- C. An affordable housing townhouse complex known as "Linsford Place" is located upon the Housing Corporation Lands, and the Housing Corporation wishes to proceed with a phased demolition, design and construction of a new "Linsford Gardens" townhouse complex (the "**Project**") in such a manner so as not to displace existing residents during construction;
- D. In order to accomplish the phased redevelopment, the City agrees to transfer the City Lands to the Housing Corporation;
- E. Following completion of construction of the Project, the Housing Corporation will transfer to the City that portion of the Housing Corporation Lands outlined in heavy black on **Schedule "C"** attached hereto (hereinafter referred to as "**Park Area**").

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the respective transfer of titles to the City Lands and the Park Area, and the mutual covenants and agreements contained within this Agreement, the Housing Corporation and the City covenant and agree as follows:

### Purchase and Sale

1. The Housing Corporation and City agree to an exchange of the City Lands for the Park Area in accordance with the terms and conditions contained within this Agreement.
2. The City and Housing Corporation agree that the values of the City Lands and the Park Area are comparable.
3. In consideration of the City transferring title of the City Lands to the Housing Corporation pursuant to **Section 3** of this Agreement, the Housing Corporation hereby agrees to:
  - (a) transfer to the City the fee simple to Park Area subject only to the permitted encumbrances listed within **Schedule "B"** attached to this Agreement;
  - (b) reimburse the City for the reasonable costs to relocate and store the playground equipment, garbage receptacle and ball diamond located on the City Lands and reinstall the same on the Park Area by a certified installer following the completion of the Project, upon receipt of invoices and documentation to support the costs;
  - (c) demolish and remove the existing Linsford Place townhomes from the Housing Corporation Lands, and remove the deep services;
  - (d) ensure that the Park Area is provided to the City in the same state upon which the City Lands existed prior to their transfer to the Housing Corporation, including but not limited to being graded and sodded. Notwithstanding the foregoing, the City agrees to pay for the cost differential between hydroseeding and sodding the Park Lands; and
  - (e) reimburse the City for reasonable costs related to the Water Main Upgrade, up to the sum of \$250,000.00, upon receipt of invoices and documentation to support the cost.
4. In consideration of the Housing Corporation transferring title of the Park Area to the City pursuant to **Section 4** of this Agreement, the City hereby agrees to:

- (a) transfer to the Housing Corporation the fee simple interest to City Lands subject only to the permitted encumbrances listed within **Schedule "B"** attached to this Agreement;
- (b) install a multiway trail through the Park Area, perimeter fencing, two park signs, an additional garbage receptacle and two park benches;
- (c) install a new 200mm-250mm water main from Black Gold Drive to 43 Avenue by open cut method, direction drill to be explored based upon site conditions, two (2) hot top tie-ins to the existing water mains, installation of a new service lateral and restoration of all disturbed land and roads during construction (collectively, the "**Water Main Upgrade**") in accordance with **Section 20** below.

5. The City Lands and the Park Area shall be at the risk of the respective parties until possession has been granted pursuant to this Agreement.

6. Notwithstanding **Sections 1-5 above**, in the event the City of Leduc Council rejects the concept plan for the Project, the Housing Corporation shall restore the City Lands to their condition as to the date of this Agreement, and transfer back the City Lands to the City at the sole expense of the Housing Corporation, and the City shall discharge its Caveat re: the Option Agreement from the Housing Corporation Lands, and this Agreement shall thereafter become null and void. Each of the City and the Housing Corporation shall be responsible for their own legal costs related to the termination of this Agreement.

#### As Is, Where Is

7. Except as indicated herein, the Housing Corporation and the City acknowledge and agree that neither party have given any representations or warranties regarding the title to or the condition of the Park Area and the City Lands, and that each party shall accept the lands "as is, where is". Notwithstanding the foregoing, the parties represent and warrant in favour of the other that:

- (a) to the best of their knowledge, the condition of the Park Area and City Lands, as the case may be, complies with all legislation, including environmental legislation;
- (b) has the power, authority and capacity to carry out the transaction, and is duly authorized to do so;



- (c) there is no pending litigation or, to its knowledge, threatened litigation related to the City Lands or the Park Area, as the case may be.

#### Conditions Precedent

8. The City's obligation to transfer title to the City Lands to the Housing Corporation pursuant to **Section 3** and **Section 4** of this Agreement is subject to the following conditions precedent:

- (a) the City obtaining Council approval to the transaction, **on or before August 22, 2018**; and
- (b) the City removing the playground equipment and the ball diamond from the City Lands, **on or before October 5, 2018**.

The City shall pursue the satisfaction of condition 8(a)-(b) at its sole cost and expense. The above conditions may only be waived by written notice of the City to the Housing Corporation on or before the applicable condition date.

9. The Housing Corporation's obligation to transfer title to the Park Area to the City pursuant to Section 4 shall consist of:

- (a) the Housing Corporation sodding the Park Area with grass, **on or before October 30, 2020**;
- (b) completion of construction of the Project, **on or before November 30, 2020**;
- (c) obtaining subdivision approval necessary for the Housing Corporation to transfer Park Area to the City substantially in conformance with the boundaries shown within **Schedule "C"** attached to this Agreement, **on or before December 1, 2020**;
- (d) the Housing Corporation preparing a registrable subdivision plan required in order to create separate titles to the lands comprising Park Area, substantially in conformance with the boundaries shown within **Schedule "C"**, which subdivision plan is to be prepared in accordance with the provisions of the Surveys Act, and registration of the same at the Land Titles Office, **on or before January 15, 2021**.

The above Conditions shall be the responsibility of the Housing Corporation, at its sole cost and expense, in favour of the City, and may only be waived by the City by way of written notice to the Housing Corporation on or before the applicable condition date.

### **Closing & Possession**

10. Subject to the satisfaction of all conditions precedents, the City Lands shall be transferred to the Housing Corporation, and the registration of all required documentation at the Land Titles Office shall be completed, **on or before the thirtieth (30<sup>th</sup>) day following the satisfaction of the conditions precedent contained within Section 8 above (the "City Closing Date")**.

11. Subject to the satisfaction of all conditions precedents, the Park Area shall be transferred to the City, and the registration of all required documentation at the Land Titles Office shall be completed, **on or before the thirtieth (30<sup>th</sup>) day following the satisfaction of the conditions precedent contained within Section 9 above (the "Housing Corporation Closing Date")**.

12. Upon the Housing Corporation becoming the registered owner of City Lands at the Land Titles Office, the Housing Corporation shall be entitled to vacant possession of the City Lands.

13. Upon the City becoming the registered owner of the Park Area at the Land Titles Office, the City shall be entitled to vacant possession of Park Area.

14. The transactions contemplated within this Agreement shall be completed in the following manner:

- (a) on or upon the City Closing Date, the City, or its solicitors shall concurrently submit for registration the following documents at Land Titles Office:
  - (i) a registrable transfer of land of the City Lands to the Housing Corporation;
  - (ii) Caveat re: Option to Purchase in favour of the City for registration on title to the Housing Corporation Lands; and
  - (iii) a Form A Application for Consolidation of Titles in order to consolidate the City Lands and the Housing Corporation Lands;

and in such a manner so as to ensure that all documents are either registered or rejected together;

- (b) on or upon the Housing Corporation Closing Date, the City, or its solicitors, shall concurrently submit for registration the following documents at the Land Titles Office:
  - (i) a registrable subdivision plan providing for the registrable transfer of land of the Park Area in favour of the City;
  - (ii) discharge of the City's Caveat re: Option to Purchase as against the Housing Corporation Lands; and
  - (iii) the Easement as contemplated within **Section 21** hereof;

and in such a manner so as to ensure that all the documents are either registered or rejected together.

15. Each of the Housing Corporation and the City shall be responsible for their own legal and related costs, including the costs associated with the creation of this Agreement. Notwithstanding the foregoing, the Housing Corporation shall be responsible for all costs associated with the survey, subdivision, and transfer of parcels of land required in order to complete the transaction contemplated within this Agreement.

16. In the event that any one of the conditions precedent contained within **Sections 8 and 9** of this Agreement are not waived or satisfied by the condition dates stipulated, this Agreement shall become null and void save and except for the Housing Corporation's obligations under **Section 6** of this Agreement.

#### Option to Purchase

17. The Housing Corporation's transfer of the Park Area shall occur following completion of the Project, being after the City has transferred the City Lands to the Housing Corporation. As a result, the Housing Corporation acknowledges that the City shall have the right to register a caveat against title to the Housing Corporation Lands with respect to its interest in the Housing Corporation Lands pursuant to this Agreement. The Housing Corporation shall also grant the City the Option to Purchase the Park Area for \$1.00 in accordance with the Option to Purchase (Portion) (the "**Option Agreement**") attached hereto as **Schedule "D"**.

### **Re-Installation of Playground Equipment**

18. The Housing Corporation shall reimburse the City for the reasonable costs associated with the removal, storage and re-installation the playground equipment, the garbage receptacle, and ball diamond which were removed from the City Lands to permit construction, following completion of the Project, and upon receipt of invoices and documentation to support the cost thereof. The parties agree that the re-installation shall be done by a certified playground installer. The Housing Corporation shall also ensure the Park Lands are sodded, however the City shall reimburse the Housing Corporation for the difference in cost between hydro-seeding and sodding the Park Lands, upon receipt of a quote (for hydro-seeding) and the invoice to support the cost of sodding the Park Lands.

### **Signage**

19. Prior to the erection of any signage upon the City Lands or the Housing Corporation Lands, the parties shall agree to the form and content of the same.

### **Water Main Upgrade**

20. The City shall design and tender the Water Main Upgrade and manage the contractor selected to construct the Water Main Upgrade (or retain the necessary consultant to do so). The Housing Corporation shall reimburse the City for the reasonable costs for the Water Main Upgrade to a maximum sum of \$250,000.00, upon receipt of invoices and documentation to support the costs. The City shall be responsible for any costs in excess of \$250,000.00.

### **Easement**

21. The City acknowledges and agrees that an easement will be required by the Housing Corporation for underground services, including but not limited to water, gas, electrical lines, services or distribution systems together with any and all appurtenances incidental or necessary in relation thereto, along with the right of ingress and egress over the Park Area for purposes in connection thereto (the "**Easement**"). The City and Housing Corporation acknowledge that the exact location of the services is currently unknown but agree to enter into such further agreements when information as to the easement area is known.

### General

22. Each of the City and the Housing Corporation shall be responsible for all Goods and Services Tax ("G.S.T.") consequences of purchasing and selling the City Lands and the Park Area. If either party is properly registered for the purposes of the G.S.T. pursuant to the *Excise Tax Act* of Canada, and prior to the Closing Date the purchaser party has provided to the vendor party confirmation of a G.S.T. registration number, confirmation that the Purchaser party is such a registrant, and a covenant by the purchaser party to indemnify the vendor party with respect to any and all costs relating to the G.S.T. payable with respect to this transaction, G.S.T. shall not be payable on the Closing Date. However, the purchaser party shall be responsible for filing all reports or documentation necessary in order to satisfy the requirements of Section 228(4) of the *Excise Tax Act*, including the remittance of any G.S.T. payable. Notwithstanding the foregoing, the Housing Corporation represents and warrants to the City that it is G.S.T. exempt.

23. Each of the parties hereto agrees to execute such further deeds and documents, and do all things as may be required to properly carry out the true intent and purpose of this Agreement.

24. This Agreement contains the entire agreement between the Housing Corporation and the City and there are no other terms, conditions, promises, understandings, statements or representations express or implied concerning the exchange of lands contemplated thereunder.

25. A waiver by any party hereto of the strict performance by any other party of any covenant or provision of this Agreement shall not itself constitute a waiver of any subsequent breach of such covenant or provision, or any other covenant or provision of this Agreement.

26. The parties agree that all representations, warranties and provisions contained herein shall survive the closing of the transaction contemplated hereunder and shall not be deemed to merge or to have merged, in the delivery, execution or registration of the transfer of the lands.

27. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

28. This Agreement shall be governed by the laws of the Province of Alberta.

29. Time shall be of the essence.

30. Whenever under the provisions of this Agreement, any notice, demand or request is required to be given by either party to the other, such notice, demand or request may be given by delivery by hand to, by registered mail sent to, the respective addresses of the parties or fax transmissions being:

Alberta Social Housing Corporation  
Box 927  
Edmonton, AB T5J 2L8  
Fax: (780) 644-7482  
Attention: Executive Director, Capital Initiative

City of Leduc  
#1 Alexander Park  
Leduc, AB T9E 4C4  
Fax: (780) 980-7127  
Attention: Chief Administrative Officer

or such other fax number or address as either party may designate from time to time by written notice to the other. Any notice shall be faxed or delivered to and left at the address for notice of the party to whom it is to be given during normal business hours on a business day and shall have been deemed to be received on the date of delivery or fax transmission.

31. The parties hereby acknowledge and confirm that each was advised by the other to obtain independent legal or other professional advice, and that each has had an opportunity to read, review and understand the nature and effect of the provisions of this Agreement prior by executing this Agreement. Each hereby confirms that it has had the opportunity to seek independent legal or professional advice prior to executing this Agreement and has either:

- (a) obtained such legal or other professional advice; or
- (b) waived the right to obtain such independent legal or other professional advice.

32. This Agreement may be executed in counterparts, including execution and delivery by facsimile or email PDF, each of which so executed and sent shall be deemed to have been an original, and such counterparts together shall constitute one and the same agreement and shall be deemed to be and constitute a properly executed, delivered and binding agreement.

IN WITNESS WHEREOF the parties hereto have executed these presents under corporate seal as of the day and year first above written.

**ALBERTA SOCIAL HOUSING CORPORATION**

Per: *B Fendley*

Per: *R Cuppens* c/s

**CITY OF LEDUC**

Per: *Paul Benedetto*

Per: PAUL BENEDETTO c/s  
City Manager, City of Leduc

**SCHEDULE "A"**

**The Housing Corporation Lands and The City Lands**

**The Housing Corporation Lands**

PLAN 1410MC  
BLOCK THIRTY SEVEN (37)  
LOT B, CONTAINING ONE AND TWENTY NINE HUNDREDTHS (1.29 ACRES)  
MORE OR LESS  
LOT C, CONTAINING ONE AND NINETY HUNDREDTHS (1.90) ACRES,  
MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS

**The City Lands**

PLAN 1410MC  
BLOCK 37  
LOT D  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.522 HECTARES (1.29 ACRES) MORE OR LESS



**SCHEDULE "B"**

**Permitted Encumbrances**

**The Housing Corporation Lands**

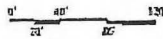
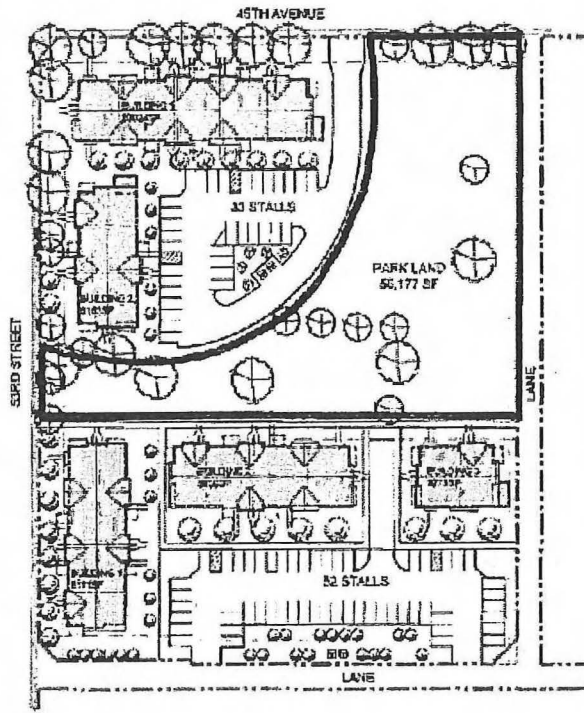
- (a) \_\_\_\_\_ - CAVEAT RE: OPTION TO PURCHASE  
(TO BE REGISTERED BY THE CITY  
PURSUANT TO THIS AGREEMENT)

**The City Lands**

NIL

SCHEDULE "C"

Park Area



	Project	SITE PLAN	Job No	18031
	Sheet Title	LINGFORD PARK	Scale	AS NOTED
	Drawn	02/20/08	1/1/08	JP-01

**SCHEDULE "D"**

**Option to Purchase**

THIS AGREEMENT made effective this \_\_\_\_ day of \_\_\_\_\_ 2018.

**BETWEEN:**

**ALBERTA SOCIAL HOUSING CORPORATION**  
(hereinafter referred to as the "Optionor")

- and -

**CITY OF LEDUC**  
(hereinafter referred to as the "Optionee")

**OPTION TO PURCHASE (PORTION)**

**WHEREAS:**

A. The Optionor and Optionee are parties to a Land Exchange Agreement dated \_\_\_\_\_, 2018 (the "**Exchange Agreement**");

B. The Optionor is the registered owner of the fee simple estate in the lands legally described as:

PLAN 1410MC  
BLOCK THIRTY SEVEN (37)  
LOT B, CONTAINING ONE AND TWENTY NINE HUNDREDTHS (1.29 ACRES)  
MORE OR LESS  
LOT C, CONTAINING ONE AND NINETY HUNDREDTHS (1.90) ACRES,  
MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS

(hereinafter referred to as the "**Optionor's Lands**");

C. Pursuant to the Exchange Agreement, the Optionee will transfer title to the City Lands (as that term is defined in the Exchange Agreement) prior to the Optionor transferring title to the Park Area to the Optionee;

D. The Optionee is desirous of obtaining an Option to Purchase a portion of the Optionor's Lands AS approximately shown within **Schedule "A"** attached hereto (hereinafter referred to as the "**Park Area**").

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the terms, conditions, covenants and provisos hereinafter set forth, the Optionor and Optionee each agree with the other as follows:

### **1.0 GRANT OF OPTION**

1.01 Upon payment of the sum of One (\$1.00) DOLLAR (the "Option Consideration"), by the Optionee to the Optionor, the Optionor hereby grants to the Optionee the sole and exclusive Option to purchase the Park Area in accordance with the terms and conditions of this Agreement.

### **2.0 EXERCISE OF OPTION**

2.01 The option to purchase the Park Area may be exercised by the Optionee by delivering to the Optionor a written notice exercising the option when the Optionor has completed the Project (as that term is defined in the Exchange Agreement).

### **3.0 AGREEMENT FOR SALE**

3.01 Upon exercising the option to purchase in accordance with the requirements of Section 3.01 of this Agreement, this Agreement shall become a binding Agreement for Purchase and Sale of the Park Area in accordance with the terms and subject to the Conditions contained within this Agreement.

3.02 The Agreement of Purchase and Sale constituted by the exercise of the option to purchase contained within this Agreement shall be subject to and conditional upon the subdivision of the Optionor's Lands so as to create a separate title for the Park Area, or portion thereof should the Optionee choose to purchase less than the full acreage shown within **Schedule "A"** attached hereto, capable of being transferred to the Optionee within **Six (6) months** of the exercise of the option to purchase in accordance with the terms of this Agreement (hereinafter referred to as the "Condition"). The Condition is inserted for the sole benefit of the Optionee, and may only be waived by the Optionee by notice in writing. In the event that the Condition is not waived or satisfied within the time period stipulated, and the parties do not agree to extend the deadline, this Agreement shall automatically terminate and the Option Consideration, and any accrued interest, shall be returned to the Optionee without deduction.

3.03 The Optionee and the Optionor hereby covenant and agree to be jointly responsible for, to take all reasonable steps toward, and diligently pursue the satisfaction of the Condition. Application fees required in order to apply for subdivision approval, and costs of preparation and registration of the subdivision plan required in order to create a separate title for the Park Area, shall be the responsibility of the Optionee. Any reserve requirements which arise as a result of the subdivision of the Optionor's Lands shall remain the responsibility of the Optionor.

3.04 The Optionor shall co-operate fully with the Optionee:

- (a) in applying for and completing the subdivision of the Optionor's Lands including, without restriction, executing any and all application forms, consents and agreements necessary in order to complete the subdivision process prior to the expiration of the Condition period set forth above; and
- (b) in permitting full and unobstructed access to the Optionor's Lands for the Purposes of allowing the Optionee to complete any and all due diligence investigations through its contractors or otherwise.

#### **4.0 PURCHASE PRICE**

4.01 The Purchase Price that shall be payable by the Optionee in consideration of the transfer of title to the Park Area shall be the sum of **One (\$1.00) DOLLAR, not including applicable Goods and Services Tax** (hereinafter referred to as the "Purchase Price"), and shall be paid in lawful money of Canada following the exercise of the option to purchase and in the following manner, the balance of the Purchase Price shall be paid by the Optionee to the Optionor on or before the **Sixtieth Day (60<sup>th</sup>) day** following the satisfaction of all conditions precedent contained within this Agreement (hereinafter referred to as the "Closing Date").

For the purposes of tender and payment of the balance of the Purchase Price, the Optionee shall be entitled to deliver payment to the solicitor acting for the Optionor. In the event that the Optionor retains no solicitor at all, the Optionor covenants and agrees the tender or payment of the balance of the Purchase Price to each of the parties comprising the Optionor at the address for notice under this Agreement shall be good and sufficient for the purposes of completing the purchase and sale of the Park Area in accordance with this Agreement.

#### **5.0 CLOSING DOCUMENTS**

5.01 In the event of, and upon the exercise of, the option to purchase pursuant to the terms of this Agreement, and the satisfaction of the Conditions, the Optionor or its solicitor shall prepare and deliver to the Optionee's solicitor a registrable Transfer of Land, together with any other documentation reasonably required in order to complete the purchase and the sale of the Park Area, a reasonable amount of time prior to the Closing Date (not less than the registration time required by the Land Titles Office, plus 4 working days) in order to allow the purchase and sale transaction to be completed as of the Closing Date in accordance with the terms of this Agreement. The said Transfer of Land and additional documents shall be delivered upon reasonable solicitor's trust conditions acceptable to the solicitors for each of the Optionor and the Optionee, each acting reasonably, including payment of the balance of the Purchase Price upon registration of the Transfer of Land.

5.02 All money owing to the Optionor shall be paid to the Optionor or its solicitor on or before the Closing Date. Subject to the tender of closing documentation in accordance

with above provisions, monies delivered after the Closing Date shall bear interest at the rate of 2% per annum above the current Province of Alberta Treasury Branches prime lending rate on any money owing to the Optionor at the Closing Date, from and including the Closing Date until the full Purchase Price has been paid.

## **6.0 POSSESSION**

6.01 Upon payment of the Purchase Price by the Optionee to the Optionor, the Optionor shall deliver vacant possession of the Park Area to the Optionee free and clear of any and all tenancies, registrations and encumbrances whatsoever, save and except for the following permitted encumbrances:

- (a) \_\_\_\_\_ - CAVEAT RE: OPTION TO PURCHASE  
(TO BE REGISTERED BY THE OPTIONEE  
PURSUANT TO THIS AGREEMENT)

(the "Permitted Encumbrances").

6.02 The Optionee shall not be responsible for the loss of any agricultural crops or any other interest of any lessee or licensee on the Park Area as a result of the Optionee taking possession of the Park Area, and the Optionor shall indemnify and save harmless the Optionee from any and all liabilities, damages, costs (including, without restriction, legal costs on a solicitor and his own client full indemnity basis), claims, suits or actions brought by any other holder of an interest in the Optionor's Lands and the Park Area and caused by or resulting from the Optionee exercising its rights over the Park Area pursuant to this Agreement.

## **7.0 ADJUSTMENTS**

7.01 All realty taxes, local improvement levies, utility rates and assessments, rentals and all other incomings and outgoings respecting the Park Area shall be apportioned and allowed as of the Closing Date, and the Purchase Price shall be adjusted as at the Closing Date in accordance with the apportionment of the said taxes, local improvement levies, utility rates and assessments, incomings and outgoings.

## **8.0 LEGAL AND REGISTRATION FEES**

8.01 The Optionor shall be responsible for the preparation of the transfer of the Park Area and for the fees and disbursements of the Optionor's solicitors, and Optionee shall pay all expenses of its own solicitors and the registration of the aforesaid transfer of the Park Area.

## **9.0 NO FURTHER ENCUMBRANCES, REGISTRATIONS, ETC.**

9.01 The Optionor covenants and agrees with the Optionee to do nothing (except as herein provided) to encumber the Park Area after the execution of this Agreement and while it is in effect, so that upon exercise of the option to purchase and the registration of the transfer as contemplated herein, the Optionee shall obtain title to the Park Area free and clear of all liens, charges, and encumbrances whatsoever (save and except for the Permitted Encumbrances). The Optionor represents, warrants, covenants and agrees that:

- (a) it has not now permitted, and shall not in the future permit, the registration of any instruments against the title to the Park Area; and
- (b) it has not now granted, nor will it in the future grant, any other interest in or in respect of the Park Area including, without restriction, any interests which are capable of being registered against the title to the Park Area;

other than the Permitted Encumbrances.

9.02 The Optionor covenants and agrees that from and after the execution of this Agreement and while it is in effect it shall not permit, by its own actions or omissions or by the actions or omissions of others, the occurrence of damage, degradation, or other events or occurrences which shall or may in the future result in the reduction of the value, quality or usefulness of the Park Area, and shall at all times protect and preserve the Park Area in its current condition.

## **10.0 NO OTHER REPRESENTATIONS OR WARRANTIES**

10.01 The parties agree that except as expressly set out herein there are no representations or warranties whatsoever with respect to the Park Area, this Agreement and all other matters contained herein.

## **11.0 DEFAULT BY OPTIONOR**

11.01 The parties hereto agree that in the event of the Optionor making default in providing the Optionee with a registrable transfer for the Park Area within the time specified herein, or in the event of the Optionor making default in observance or performance of any of the covenants, conditions or provisions of this Agreement, and in any such event, the Optionee if it shall deem it advisable in the exercise of its absolute discretion, may resort to any and all remedies available to the Optionee including, without restriction, court action to enforce the Optionee's right to acquire the Park Area pursuant to this Agreement by way of specific performance, mandatory injunction or otherwise.

11.02 Notwithstanding anything contained in this Agreement in the event that the Optionee is entitled or required to commence any actions or proceedings whatsoever against the Optionor to enforce the provisions of this Agreement, then all costs and expenses of any nature whatsoever incurred by the Optionee in connection therewith,

including all legal costs, expenses and disbursements upon a solicitor and his own client full indemnity basis, shall be payable by the Optionor to the Optionee and shall be a just debt owing by the Optionor to the Optionee and may be set off as against the Purchase Price payable.

## **12.0 NOTICES**

12.01 Any notice, demand or request required or permitted herein, shall be sufficiently given only if delivered by courier, by facsimile, or by hand:

- (a) in the case of any notice, demand or request required or permitted to be given to the Optionor, then by delivery to the Optionor care of:

Alberta Social Housing Corporation  
Box 927  
Edmonton, AB T5J 2L8  
Fax: (780) 644-7482  
Attention: Executive Director, Capital Initiative

and,

- (b) in the case of any notice, demand or request required or permitted to be given to the Optionee, then by delivery to the Optionee at:

City of Leduc  
#1 Alexander Park  
Leduc, AB T9E 4C4  
Fax: (780) 980-7127  
Attention: Chief Administrative Officer

or such other address as either party may designate from time to time by written notice to the other.

12.02 Every notice, demand or request shall be deemed to have been received at the time it was delivered at the places aforesaid and it shall not be a condition of such delivery that the notice, demand or request be actually given to any person or named individual therein.

## **13.0 NO MERGER**

13.01 The provisions of this Agreement shall not be extinguished or merged in or by virtue of the delivery or registration of any of the instruments or documents contemplated by this Agreement.



#### **14.0 INTERPRETATION**

14.01 Whenever the singular number or a gender is used in this Agreement the same shall be construed as including the plural and the masculine, feminine and neuter respectively where the fact or context so requires.

#### **15.0 TIME OF ESSENCE**

15.01 Time shall be of the essence of this Agreement and of any of the instruments and documents contemplated herein.

#### **16.0 AMENDMENTS**

16.01 This Agreement shall not be or deemed or construed to be modified or amended except by an instrument in writing signed by the parties hereto specifically asserting that the Agreement is thereby amended.

#### **17.0 OPTION AGREEMENT BINDING**

17.01 This Agreement shall enure to the benefit of and be binding upon the parties hereto (jointly a severally, where applicable), and their respective heirs, executors, administrator's successors and assigns.

#### **18.0 COUNTERPART**

18.01 Notwithstanding anything contained within this Agreement, this Agreement may be executed by the parties in counterpart and conveyed by facsimile or by other electronic means (including, without restriction, electronic mail) with originals to follow by courier, such that upon the unconditional delivery a counterpart copy of this Agreement by each party to the other the said counterparts shall form one and the same Agreement dated effective as of the date of the date of the exchange of counterparts.

#### **19.0 INDEPENDENT LEGAL ADVICE**

19.01 The parties hereby acknowledge and confirm that each was advised by the other to obtain independent legal or other professional advice, and that each has had an opportunity to read, review and understand the nature and effect of the provisions of this Agreement prior by executing this Agreement. Each hereby confirms that it has had the opportunity to seek independent legal or professional advice prior to executing this Agreement and has either:

- (a) obtained such legal or other professional advice; or
- (b) waived the right to obtain such independent legal or other professional advice.

**20.0 COUNTERPART EXECUTION**

20.01 This Agreement may be executed in counterparts, including execution and delivery by facsimile or email PDF, each of which so executed and sent shall be deemed to have been an original, and such counterparts together shall constitute one and the same agreement and shall be deemed to be and constitute a properly executed, delivered and binding agreement.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed effective as of the day and year first above written.

**ALBERTA SOCIAL HOUSING CORPORATION**

Per: *B. Dindley*

Per: *K. Cuppers* (c/s)

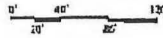
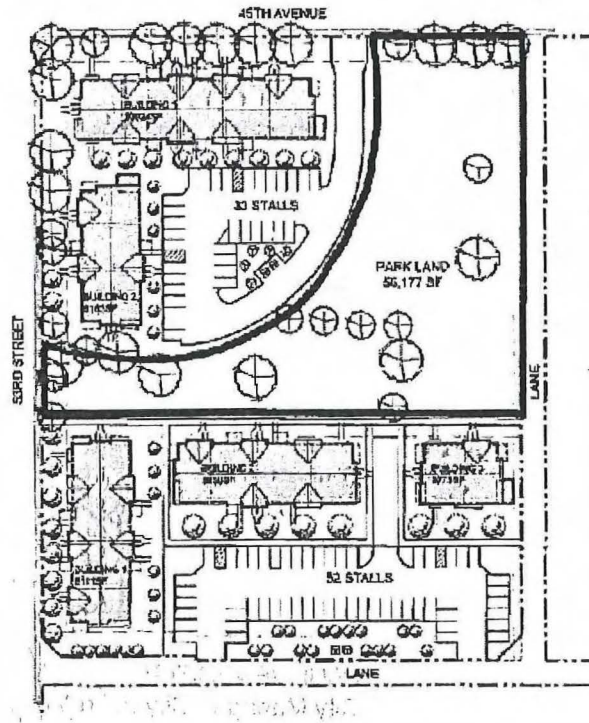
**CITY OF LEDUC**

Per: *Paul Benedetto*

Per: PAUL BENEDETTO (c/s)  
City Manager, City of Leduc

**SCHEDULE "A"**  
**to Option to Purchase**

**The Lands**



	Project: SITE PLAN	Job No: 18031
	Sheet Title: LINCOLN PARK	Scale: AS SHOWN
	Drawn: 07/18/09 1:00pm	Job: 09-01