

BASEMENT SUITE GRANT OPERATING AGREEMENT

THIS AGREEMENT dated the _____ day of _____, 2011

BETWEEN:

THE CITY OF ST. ALBERT
(the "City")

-and-

GRANTEE [Name of Program Recipient]
(the "Grantee")

OPERATING AGREEMENT

WHEREAS the City has agreed, as part of the Basement Suite Grant Program, approved by the City pursuant to City Council Resolution C172-2008 on March 17, 2008, (the "Program"), to provide a conditional grant (the "Grant") to assist homeowners who are interested in increasing the supply of affordable housing in the community of St. Albert through the construction or renovation of a basement suite within a single-detached dwelling;

WHEREAS the Grantee desires to develop a basement suite or renovate an existing suite within an existing residential property (the "Property"), located at:

[Legal Description of Property]

and is willing to offer the Suite for rent at an affordable rate in consideration for the City providing the Grantee with the Grant;

WHEREAS the Grantee has agreed, as security in the event of a breach under this Agreement, to provide a charge on the Property in the full amount of the Grant;

THEREFORE in consideration of the provision of the Grant and of the terms and conditions in this document, the parties agree as follows:

1. Definitions

- 1.1 "Basement Suite Grant Program" or "Program" means the grant program approved by the City Council pursuant to Resolution C172-2008, the details of which are set out in the report presented to City Council on March 17, 2008.
- 1.2 "Building Envelope" means the materials that provide protection from the exterior elements: windows, exterior siding, roofing materials, attic insulations, soffits and eavestroughs.

- 1.3 “Construction Costs” means the actual costs of all building materials (such as lumber, plywood, sheetrock, insulation, electrical wiring, electrical panels, electrical fixtures, plumbing fixtures and piping, basement heating system, paint, floor and wall finishing materials, cabinets, doors and windows) and the costs incurred in hiring contractors to complete work on the Suite. Construction Costs do not include the cost of any related permit applicant fees, regular replacement or maintenance of mechanical systems or exterior Building Envelope components, appliances, window furnishings, or furniture for the Suite. Except as may be required for the creation of the Suite the cost of modifications to the primary dwelling on the Property shall not be included in the calculation of Construction Costs. No cash value shall be attributed to labour provided by the Grantee, the Grantee’s spouse or common law partner or the Immediate Family, unless such labour is provided through a contract with a third party contractor. Construction Costs must be verified by written receipts or invoices.
- 1.4 “Grant” means the sum of money to be paid to the Grantee by the City in accordance with this Agreement. The maximum value of the Grant shall be \$15,000.00 for a new Suite and \$10,000.00 for existing Suite upgrades.
- 1.5 “Immediate Family” means the parents, siblings, children and grandparents of the Grantee and the Grantee’s spouse or common-law partner;
- 1.6 “Grantee” means the individual or individuals receiving the Grant from the City and any successors or assigns of such individual or individuals.
- 1.7 “Program Administrator” means the official designated by the City Manager as responsible for the administration of the Basement Suite Grant Program.
- 1.8 “Refundable Amount” means the portion of the Grant required to be repaid by the Grantee in the event of a breach of this Agreement by the Grantee, sale of the Property or the early termination of this Agreement. The Refundable Amount shall be calculated in accordance with Section 7 of this Agreement.
- 1.9 “Suite” means the self-contained dwelling unit comprising kitchen, washroom, living, and sleeping facilities with a separate private entrance from the exterior of a building or from a common hall, lobby or stairway inside a building to be constructed or renovated by the Grantee.
- 1.10 “Tenant Affidavit” means the Affidavit to be provided on an annual basis by the Grantee to the City. The Tenant Affidavit shall be in the form provided by the Program Administrator and must be sworn by a Tenant of the Suite.
- 1.11 “Term” means a period of five (5) years from the date that the Grant is paid to the Grantee.

2. Grantee’s Responsibilities

- 2.1 The Grantee assumes full responsibility for the following:
- a. Applying for and paying for all required permits and approvals necessary for the construction of the Suite.
 - b. Ensuring compliance with the City’s Land Use Bylaws, provincial building codes and this Agreement.

- c. Obtaining and submitting to the Program Administrator two (2) written and signed cost estimates from licensed contractors on company letterhead for the development or renovation of the Suite in accordance with the Program.
- d. Hiring, paying and managing all dealings with contractors who are engaged to develop or renovate the Suite in accordance with the Program, including managing all disputes which may arise between the Grantee and the contractors.
- e. Submitting material and contractors' invoices to the Program Administrator at the completion of construction or renovation to confirm eligibility of project costs.
- f. Making arrangements for the rental of the Suite, and managing any landlord/tenant disputes which may arise from the rental of the Suite.
- g. Complying with Provincial legislation and regulations related to residential tenancies and in particular complying with any regulations related to the frequency within which rent on residential units can be increased.
- h. **Both prior to accepting the Grant and during the Term**, maintaining the Suite to a minimum standard of health and safety and otherwise ensuring that the Suite remains in compliance with all applicable building health and safety regulations, standards and bylaws.
- i. During the Term, providing the City with a Tenant Affidavit on an annual basis, and such other information as may reasonably be required by the City to confirm that the Grantee is in compliance with the conditions of the Grant.
- j. Obtaining and submitting to the program Administrator proof of insurance for the Suite.

3. **Grant**

- 3.1 The City shall provide to the Grantee a conditional Grant in the amount of [REDACTED] to cover up to seventy (70%) percent of Construction Costs for the development or renovation of the Suite. In the event that seventy (70%) percent of the Construction Costs are less than (\$15,000 or \$10,000) the Grant shall be adjusted to equal seventy (70%) percent of the actual Construction Costs incurred by the Grantee.
- 3.2 The Grant shall be paid by the City to the Grantee within ten (10) days of the latter of:
 - a. the Grantee submitting material and contractor's invoices to the Program Administrator to confirm the Construction Costs incurred in constructing or renovating the Suite along with a statement from the contractor identifying the date the renovations of the Suite were complete; or
 - b. inspection of the completed Suite by the City to confirm that the Suite complies with City bylaws and all provincial regulations; or
 - c. the Grantee submitting a copy of the Certificate of Title to the Property that shows the Property free and clear of any Builders' Lien. The date of issuance of this copy of the Certificate of Title shall be at least forty-eight (48) days after the date upon which the contractor indicated the renovations of the Suite were complete.

4. Conditions

- 4.1 The Grant is subject to the following conditions:
- a. The Grantee shall not rent the Suite to members of his or her Immediate Family.
 - b. The Grantee shall provide a Tenant Affidavit to the Program Administrator on or before November 1 of every year of the Term and at the commencement of every new tenancy. The Tenant Affidavit must be sworn by the Tenant on or after September 15 of that year in order to satisfy this requirement.
 - c. The Grantee shall notify the Program Administrator as soon as practicable about the termination of every tenancy.
 - d. The Grantee shall not charge monthly rent for the Suite in excess of the Core Need Income Thresholds for St. Albert, as calculated annually by the Canada Mortgage and Housing Corporation. In the event that the Core Need Income Thresholds result in a monthly rental rate lower than the rate currently paid by a Tenant the Grantee shall lower the Tenant's rent so that the monthly rent for the Suite is not in excess of the Core Need Thresholds for St. Albert. Rent is inclusive of water, sewer, heating and parking costs.
 - e. The Grantee shall notify the Program Administrator should the Suite become vacant and the Grantee is not able to locate a new tenant for more than three (3) months during the term of this Agreement.
 - f. The Grantee shall notify the Program Administrator if the Grantee sells the Property during the Term and the Grantee shall, within ten (10) days of the closing date for the sale of the Property, pay the City the Refundable Amount.
- 4.2 The Grantee shall be bound by these conditions for the Term of this Agreement and any breach of these conditions during the Term of this Agreement shall result in the Grantee being required to repay the Refundable Amount.

5. Proof of Rental Rate

- 5.1 In the absence of evidence to the contrary, the Tenant Affidavit shall constitute sufficient evidence of the duration of tenancy, the current rental rate of the Suite and the identity of the tenant or tenants.

6. Breach

- 6.1 The Grant is conditional upon the Grantee's continued compliance with the terms and conditions of this Agreement. In the event that the Grantee fails to comply with the terms and conditions of this Agreement the City may immediately notify the Grantee, in writing, that the Agreement has been breached, that the Grant may be revoked and that if the Grant is revoked the Grantor will be obliged to pay to the City the Refundable Amount.

- 6.2 The Grantee shall have thirty (30) days from the date upon which the Grantee received notification from the City that the Grantee was in breach of this Agreement to advise the City of the steps taken by the Grantee to rectify the breach of this Agreement. In the event that the City is not satisfied that the breach of the Agreement has been or will be rectified by the Grantee the City may, in writing, confirm to the Grantee that the Grant has been revoked and stipulate the date upon which the Grantee shall be obligated to pay the City the Refundable Amount. As of that date the Refundable Amount shall become a debt due and owing to the City. Repayment of the Refundable Amount shall be no less than thirty (30) days from the date of the City's letter to the Grantee confirming the revocation of the Grant.
- 6.3 In the event that the Grantee fails to pay the Refundable Amount as required by this Agreement the City may pursue collection of the Refundable Amount as it would any other debt due and owing to the City.

7. **Refundable Amount**

- 7.1 The Refundable Amount shall be calculated in accordance with the following formula:

$$\frac{\text{Amount of Grant}}{60 \text{ months}} \quad \times \quad \begin{array}{l} \# \text{ of full months} \\ \text{remaining in} \\ \text{Term} \end{array} = \text{Refundable Amount}$$

- 7.2 The # of months remaining in the Term shall be determined using:
- a. in the case of Section 4.1(e), the closing date for the sale of the Property or the effective date for the Statement of Adjustments prepared with respect to the sale of the Property;
 - b. in the case of Section 6.2, the date of the notice by the City to the Grantee that the Grant has been revoked;
 - c. in the case of a termination under Section 10, the date of the notice to the City by the Grantee that the Grantee is terminating this Agreement and, if the notice of termination is not dated the date upon which the City receives the notice of termination from the Grantee.
- 7.3 In the event of a dispute between the Grantee and the City as to the calculation of the Refundable Amount the calculation by the City shall prevail.

8. **Security**

- 8.1 In order to secure for the City the payment of the Refundable Amount, in the event that the Refundable Amount becomes due and payable to the City by the Grantee, the Grantee hereby charges the Property, together with all of its estate and interest in the Property as security for the payment to the City of the Refundable Amount. The City shall be entitled to file a caveat against the title to the Property to give notice of its security interest in the Property pursuant to this Agreement. The City agrees that it shall postpone its security interest to any mortgage or line of credit security registered against the Property during the Term of this Agreement.

9. Core Need Threshold

9.1 By July 1 of each year of the Basement Suite Grant Program the City shall provide written notice to the Grantee of the Core Need Thresholds for St. Albert that will be applicable for the establishment of monthly rentals for the twelve (12) months following November 1 of that calendar year.

9.2 Notwithstanding the fact that the Grantee may be able to increase the rent charged for the Suite as a result of a change in the Core Need Thresholds for St. Albert, the Grantee does not have the right to increase the rent charged for the Suite unless and until the Grantee has the right, under the *Residential Tenancies Act*, S. A. c. R – 17.1, as amended, regulations under that Act or any successor legislation (collectively the “RTA”), to increase the rent charged for the Suite. In particular the Grantee shall still be obliged to comply with any notice requirements of the RTA regarding an increase in rent charged on a residential tenancy and any restrictions within the RTA regarding the frequency at which a landlord can increase rent charged on a residential tenancy.

10. Termination

10.1 The Grantee may at any time and for any reason terminate this Agreement.

10.2 In order to terminate this Agreement the Grantee must:

- a. provide written notice to the City that they are exercising their right to terminate this Agreement; and
- b. pay the City the Refundable Amount.

10.3 This Agreement shall remain in force and effect until the Grantee has paid the Refundable Amount to the City.

11. Term of Agreement

11.1 This Agreement shall continue in force for a period of five (5) years from the date hereof.

In Witness Whereof the parties hereto have executed this Agreement by their hand and seal as of the date first above written.

)	THE CITY OF ST. ALBERT
)	
)	
)	Per: _____
)	
)	
)	
_____)	_____
Witness)	(Grantee)