

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BY-LAW NO. 354

BEING a By-law authorizing the Corporation of the Township of Esquimalt to enter into an agreement with His Majesty the King in the Right of Canada and Wartime Housing Limited for the erection of living accommodation within the Municipality of Esquimalt.

WHEREAS the Lieutenant Governor in Council in pursuance of Section 504-B of the Municipal Act, Chapter 199 of the Revised Statutes of British Columbia, 1936, as enacted by Section 21 of the Municipal Act Amendment Act 1941-42, Chapter 26, has by Order-in-Council numbered 1442 and dated the 21st day of October 1942, granted power and authority to the Municipal Council of the Corporation of the Township of Esquimalt exercisable by by-law, to enter into an agreement with His Majesty the King in the Right of Canada and Wartime Housing Limited for the erection of living accommodation in the Municipality of Esquimalt and for providing and constructing necessary services and works in connection therewith in the terms of the agreement hereinafter set forth.

AND WHEREAS a draft of such agreement has been prepared between the parties therein mentioned in the terms, words and figures as follows:

MEMORANDUM OF AGREEMENT made this _____ day of _____ A. D. 1942.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT,
in the Province of British Columbia, (hereinafter called "the Municipality")

OF THE FIRST PART

AND:

WARTIME HOUSING LIMITED, a company incorporated under the Dominion Companies Act pursuant to the provisions of the Department of Munitions and Supply Act being Chapter 3 of the Statutes of 1939 (second session) as amended (hereinafter called "the Company")

OF THE SECOND PART

AND:

HIS MAJESTY THE KING IN RIGHT OF CANADA, (hereinafter called "His Majesty") herein acting and represented by the Honourable the Minister of Munitions and Supply of Canada acting through the said Wartime Housing Limited,

OF THE THIRD PART

WHEREAS His Majesty has acquired and/or proposes to acquire and/or may hereafter propose to acquire lands and/or interests in lands within the limits of the Municipality and has erected and/or proposes to erect and/or may hereafter propose to erect on the said land and/or interests in lands acquired or to be acquired or portions thereof living accommodation for persons engaged in the Municipality in the production of munitions of war and supplies or on defence projects and the families of such persons.

NOW THIS AGREEMENT WITNESSETH that in consideration of the mutual stipulations the parties hereto have agreed as follows:

1. Any existing or future provisions of the charter and/or by-laws of the Municipality with respect to the buildings and the manner, mode, location and type of construction shall not apply to any such living accommodation nor to any sewers or water mains now or hereafter constructed or installed by or on behalf of His Majesty on the said lands acquired or to be acquired from time to time by His Majesty from the Municipality or from any person, firm or corporation, in fee simple or by lease or otherwise, the Company and/or His Majesty nevertheless will inform itself or Himself of the by-laws of the Municipality relating to the construction of buildings and of the inspection of the construction of buildings ordinarily made by the Municipality and will endeavour to give effect to the intention of such by-laws and inspections in so far as the Company may reasonably do, the Company notwithstanding there is to be a relaxation in carrying out the provisions of the Municipal by-laws will nevertheless construct or have constructed all buildings and works as is hereinafter defined in a good and workmanlike manner and will install or have installed therein brick chimneys in all buildings used for living accommodation, it being agreed that the usual or accepted building electrical and plumbing standards be followed as far as possible having regard to the fact that the buildings are temporary and are constructed for a temporary purpose. The Company may notwithstanding the provisions of any Municipal by-law as aforesaid install or cause to be installed such sewer and water mains in such manner and at such location of such standard material and installation as His Majesty and the Company may in His or its discretion and as herein agreed from time to time determine.
2. The Company covenants and agrees with the Municipality to pay all of the cost of material and construction and installation in, under, over and upon the said lands and on the streets abutting the said lands and of such sewer mains and services, surfacing of roads, sidewalks, curbs, gradings, ditches and fences as the Company shall deem necessary or desirable (all herein sometimes referred to as the "works") His Majesty and/or the Company shall have the right to connect the works without payment of a charge to any similar works of the Municipality regard always being had to the fact that the Municipality regard always being had to the fact that the Municipality does not own or control the water distribution system. Such of the works as are within the boundaries of any street now or hereafter established shall be operated, maintained and repaired by the Municipality to the same extent and according to the same law or custom,

the Municipality is charged with the duty of operating, maintaining or repairing similar works in any other part of the Municipality and the cost of operating, maintaining and repairing the same as aforesaid shall be borne by the Municipality, provided, however, that if during the term of this agreement any extraordinary repairs of a capital or substantial nature (such as re-surfacing of streets) are in the opinion of His Majesty or the Company required to be and are made to any such works, the cost of such extraordinary repairs shall be borne by the Company. Such of the works as shall be under, in, over or upon any public street or streets, shall forthwith upon completion thereof belong to the Municipality without compensation or indemnity to His Majesty or the Company. The Municipality in conformity with the law or custom in that behalf as expressed herein shall keep all the said works in proper working order and condition at all times during the existence of this agreement and so long as the said works remain under, in, over or upon such street or streets, and shall respect any rights which His Majesty or the Company shall have granted in respect of the same. The Company and/or His Majesty will provide all material and costs of installation of all electric light and power poles and lines for domestic use and street lighting.

3. It is understood between the parties that the tenants of His Majesty in the said living accommodation shall pay to the Municipality for any public utility services furnished to the said tenants by the Municipality on such terms and condition and at such rates as may from time to time be agreed upon by His Majesty or the Company and the Municipality, but in no event shall the said terms or conditions be less favourable or the said rates in excess of those on which the public utility services are furnished by the Municipality to other tenants of real property in the Municipality: but nothing herein contained shall be deemed to require or obligate directly or indirectly His Majesty or the Company to pay or cause to be paid the charges for such public utility services.

4. Subject to the provisions of this Agreement the Municipality covenants and agrees to furnish to the living accommodation and to the tenants of His Majesty therein all such facilities, privileges and services of the Municipality as are furnished or made available to other properties or property owners and tenants in the Municipality including without in any way limiting the generality of the foregoing fire protection, police protection and schools.

5. The Company and/or His Majesty agrees to pay to the Municipality on the 31st day of December in each year during the term of this agreement for services rendered and privileges and facilities made available to the living accommodation the sum of Twenty-four Dollars (\$24.00) in respect of each house containing two bedrooms or in respect of each suite of two bedrooms in any house containing more than one such suite and the sum of Thirty Dollars (\$30.00) in respect of each house containing more than two bedrooms or in respect of each suite of more than two bedrooms in any house containing more than one such suite, which shall have been so constructed on the said lands; provided that the said payments shall be pro rated in respect of the portion of the first year in which the construction of such house is completed. The Company further agrees to pay to

the Municipality in each year on the date aforesaid the sum of One (\$1.00) Dollar in respect of each such house in consideration of the Municipality supplying the necessary street lighting to the reasonable satisfaction of His Majesty or the Company. For services rendered and privileges and facilities made available to the staff houses and dining halls constructed or installed by or on behalf of His Majesty on the said lands, irrespective of the number, the Company and/or His Majesty agrees to pay to the Municipality the total sum of Five hundred (\$500.00) Dollars on the 31st day of December in each year during the term of this agreement.

6. In consideration of the payments to be made by the Company under the provisions of the preceding paragraph, the Municipality covenants and agrees that it will not levy or assess nor permit to be levied or assessed upon land and improvements any taxes, assessments, rates or municipal or school charges of any kind or nature on the tenants or occupiers of the said lands which are now or may from time to time be leased to or owned by His Majesty and the said tenants and occupiers and owners are hereby released and discharged of any claim by the Municipality for such taxes, assessments, rates or charges, provided, however, that nothing contained in this paragraph shall be deemed to limit the right of the Municipality to charge the tenants in the said living accommodation for public utility service as provided in Paragraph 3.

7. The terms and conditions of this Agreement shall cease to apply in respect of such of the said lands or to the living accommodation as shall from time to time be sold or transferred by His Majesty; provided, however, that this clause shall not apply where His Majesty grants leases to tenants for the purposes contemplated by this agreement.

8. This agreement may be terminated by the Company upon three months' notice in writing sent to the Municipality by registered mail addressed to it at Esquimalt, British Columbia, and shall in any event terminate six months after the date of the publication in The Canada Gazette of a proclamation by the Governor-General in Council that the hostilities in which His Majesty is presently engaged have ceased, but such termination shall not in any way apply to or affect any conveyance or lease of the said lands to His Majesty, title to which lands or interest in lands as the case may be and the living accommodation shall remain vested in His Majesty notwithstanding such termination. PROVIDED also that if His Majesty or the Company shall sell, or shall lease for a term in excess of three (3) years any house forming part of the living accommodation then His Majesty or the Company as the case may be shall insert in such contract of Sale or lease a term that the Purchaser or Lessee shall alter and improve such house so that it complies with the building by-laws of the Municipality, and with such statutes of the Province of British Columbia as may apply and shall if the Council of the Municipality so requests construct a permanent cement foundation thereunder, and brick chimneys to be

constructed in a proper manner as a replacement for any other type which may have been hitherto used it being always understood that the remedy of the Municipality against any purchaser or lessee for failure to alter such house as above set out shall be as provided by statute or common law; PROVIDED further that if the parties hereto do agree that certain houses of the living accommodation should be removed to a new site in order to effect an improved local condition or to prevent a slum condition, then such house shall not be leased beyond a term of three (3) years and shall not be sold without first being removed, and in the event of such removal, the lots on which the respective houses were situate previous to the removal and the sewer and water services laid upon such lots shall revert to and become the property of the Municipality absolutely.

9. Upon the termination of this Agreement as set forth in Paragraph 8 herein the Company and/or His Majesty, shall dispose of such lands and living accommodation within a reasonable time for the orderly marketing thereof to such persons as will permit the Municipality to include the said lands and living accommodations on the tax roll, and in accordance with the conditions as expressed in Paragraph 8 herein.

10. PROVIDED always and it is hereby declared by the parties hereto that the covenants contained in this Agreement shall not merge or otherwise become extinguished upon a conveyance by the Municipality to His Majesty but shall be kept afoot as subsisting covenants as fully to all intents and purposes as if the title to the aforesaid lands had remained in the Municipality.

11. In this Agreement the following definitions shall apply:

(a) "the said lands" shall mean and include all lands and/or interests in lands within the limits of the Municipality acquired and/or which may from time to time hereafter be acquired by His Majesty for the purposes contemplated by this agreement:

(b) "living accommodation" shall mean and include buildings erected and/or proposed to be erected and/or which may hereafter be proposed to be erected on the said lands as defined above.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties the day and year first above written.

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

PER _____
PER _____
C.S.

WARTIME HOUSING LIMITED

PER _____
PER _____
C.S.

HIS MAJESTY THE KING IN RIGHT OF CANADA
herein represented by the Minister of
Munitions and Supply of Canada acting
through

WARTIME HOUSING LIMITED

PER _____

PER _____

AND WHEREAS the Corporation of the Township of Esquimalt has agreed to sell and convey to His Majesty the King in the Right of Canada certain lands which have been acquired by the said Corporation under Tax Sale proceedings by reason of nonpayment of taxes imposed, for the purpose of having living accommodation and the necessary works and services constructed and installed thereon.

AND WHEREAS the Municipal Council of the Corporation of the Township of Esquimalt has the power by by-law finally passed by an affirmative vote of three-fourths of all its members, to dispose of any such lands so acquired.

NOW THEREFORE the Municipal Council of the Corporation of the Township of Esquimalt in exercise of the said power and authority conferred, enacts as follows:

1. The Reeve and Clerk of the Corporation of the Township of Esquimalt are empowered to execute and deliver the herein-before recited agreement which on its execution and delivery by the other parties therein mentioned, shall be deemed to form part of and be read with this by-law and shall be fully validated according to the true tenor and effect thereof.
2. The terms, conditions, stipulations and provisoes in the said agreement set forth are hereby approved and confirmed and the parties thereto are hereby authorized and empowered to have, hold and exercise all the rights and privileges mentioned or referred to in the said recited agreement, subject to the conditions and terms therein set forth. It shall be lawful for the said Corporation to carry out, perform and fulfill the said recited agreement and to provide such costs and expenses which the Municipal Council deems necessary for carrying out and fulfilling its terms and to protect the interests of the said Municipal Corporation in carrying out the provisions of the herein recited agreement.
3. It shall be lawful for the Corporation of the Township of Esquimalt to sell and convey the lands and premises hereinafter described in Schedule "A" which have been acquired by the said Corporation through tax sale proceedings for non-payment of taxes imposed, unto His Majesty the King in the Right of Canada for the sum of \$191.00, and on payment thereof the Reeve and Clerk of the Corporation of the Township of Esquimalt are hereby empowered to execute and deliver the necessary conveyance and attach thereto the Corporate Seal.
4. This by-law may be cited as "Wartime Housing By-Law 1942".

PASSED the Municipal Council on the 9th day of November,
1942.

RECONSIDERED, ADOPTED AND FINALLY PASSED the Municipal
Council this 16th day of November, 1942.

"A. Lockley"
Reeve

"G. H. Pullen"
Clerk